

# ***JPRS Report***

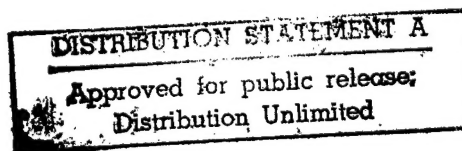
## ***Supplement***

# **East Europe**

## ***Recent Legislation***

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# East Europe

## Recent Legislation

JPRS-EER-92-129-S

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15 September 1992

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**Amendments to Resolution on Application of Law  
on Farmland**

**Resolution 184**

92BA0962A Sofia DURZHAVEN VESTNIK  
in Bulgarian No 80, 27 Sep 91 pp 15-16

[Council of Ministers Resolution No. 184 of 20 September 1991 on Amending and Supplementing the Resolution on the Application of the Law on the Ownership and the Utilization of Farmland, signed by Dimitur Popov, prime minister, and Ivan Minev, chief secretary of the Council of Ministers; the Resolution on the Application of the Law on the Ownership and the Utilization of Farmland was published in JPRS-EER-91-077-S, 7 June 1991, on pages 1-10, and the Amendments to the Resolution from 26 July 1991 were published in JPRS-EER-91-141-S, 23 September 1991, on pages 37-38.]

[Text]

**COUNCIL OF MINISTERS  
RESOLUTION**

**Section 1.** Another sentence is added to Article 20, Paragraph 2, to read as follows:

"Studies and project proposals will be assigned on the basis of auction or competition; if there is one applicant only, a contract shall be signed with him."

**Section 2.** Article 34 is amended as follows:

1. The present text of Article 31 becomes Paragraph 1.
2. A new Paragraph 2 is added to read as follows:

"(2) The municipal land commission may ask for an official ecological evaluation of lands that are perennially polluted or subject to pollution with heavy metals or other harmful substances that necessitate restrictions in land utilization."

**Section 3.** In Article 36, Paragraph 3, the words "on the basis of a motivated proposal submitted by the National Land Council" are deleted.

**Section 4.** In Article 37, Paragraph 3, the first sentence is amended to read as follows:

"The land of the municipal land fund allocated for land settlement shall be determined by the municipal people's council."

**Section 5.** Article 49 is amended to read as follows:

1. A new Paragraph 2 is inserted to read as follows:

"(2) The General Assembly shall determine the rent and dividends to be paid to the landowners, and shares of the TKZS [labor cooperative farm] property dating from the enactment of the Law on the Ownership and the Utilization of Farmland."

2. Paragraphs 2, 3, and 4 become Paragraphs 3, 4, and 5, respectively.

**Section 6.** A new Article 49a is created, to read as follows:

"Article 49a. (1) The following have the right to vote in the General Assembly in resolving problems as per Article 49:

"1. Cooperative members or authorized representatives of their heirs;

"2. Noncooperative members who own land cultivated by farming organizations, or authorized representatives of their heirs;

"3. Individuals who have worked at least five years.

"(2) The General Assembly as per Paragraph 1 is convened by decision of the administrative council, at the request of the control council, or at the request of one-tenth of its members, as per the preceding paragraph. Should the administrative council fail to convene it within 14 days, it must be convened by the control council or by one-tenth of the membership as per the preceding paragraph.

"(3) The announcement of a date for holding the General Assembly must be made publicly in the settlement no less than 20 days before the meeting. The announcement must also be made public through the national media.

"(4) The TKZS administrative council appoints a commission consisting of three members to check the right of participation of individuals as per Paragraph 1, Items 2 and 3.

"(5) The General Assembly is considered legal if attended by at least two-thirds of the cooperative members and individuals who have proved their right to participate as per Paragraph 4.

"(6) If no quorum can be assembled for the General Assembly, it must be postponed and a new General Assembly convened in seven days. If once again there is no quorum, the meeting takes place one hour later, regardless of the number of those present.

"(7) The heirs of individuals as per Paragraph 1 have the right to one vote in the General Assembly and one presence in establishing a quorum.

"(8) The resolutions of the General Assembly shall be passed by open vote and a simple majority of those present at the Assembly.

"(9) Minutes will be kept for the Assembly, which will be signed by the chairman of the Assembly and the recorder."

**Section 7.** Article 51 will be amended to read as follows:

1. Add in Paragraph 1 "unless the time worked in machine-tractor stations was done by mechanizers and is

the result of reorganizations in the labor cooperative farms and agro-industrial complexes."

2. In Paragraph 6, first sentence, the words "in the respective TKZS or APK [agro-industrial complex]" are replaced by "TKZS or APK unless they have contributed land or inventory."

**Section 8.** Article 59, Paragraph 1 is amended to read as follows:

1. In Item 7, the words "and ownership" are deleted.

2. In Item 8, letter "a," the words "among state organizations" are added to the words "of the State Land Fund."

**Section 9.** In Article 60, Paragraph 3, the second sentence is amended to read as follows: "The chairman and the secretary of the municipal land commission and its members, as defined by the National Land Council, must be full-time employees."

**Section 10.** Article 61 is amended to read as follows:

1. In Paragraph 2, add at the end "paying only the cost of the used materials for the prepared copies."

2. A new Paragraph 3 is created to read as follows:

"(3) Funds necessary for procuring the data as per Article 18, Paragraph 1 shall be provided by the National Land Council."

**Section 11.** A new Article 67 is created, to read as follows:

"Article 67. (1) A 'Land' Fund is created under the National Land Council for the collection of funds related to the application of the Law on the Ownership and the Utilization of Farmland.

"(2) The assets for the Land Fund come from the state budget, donations made by Bulgarian and foreign individuals, aid and other sources and are used to finance the land reform as per the Law on the Ownership and the Utilization of Farmland.

"(3) The money collected in this fund as per Paragraph 1 is kept in a separate income-expenditure nonbudget account and spent in accordance with the procedure regulated with an instruction adopted by the National Land Council and coordinated with the minister of finance."

**Section 12.** Section 2 of the Provisional and Concluding Stipulations is amended to read as follows:

"Section 2. (1) The municipal land commissions may grant farmland to households for temporary use. The specific amount and location of such land is defined in a resolution of the municipal land commission, which must be coordinated with all interested individuals, taking into consideration the potential of the area, under conditions and procedures defined by the National Land

Council. The right to utilization is terminated at the latest when the owners of such land, whose rights have been restored in accordance with the stipulations of Articles 32 and 33, have taken possession.

"(2) If the land stipulated in Paragraph 1 is cultivated or under crop, the user shall pay for the incurred expenditures by agreement with those who have cultivated the land.

"(3) The users as per Paragraph 1 may not change the permanently classified type of the land granted to them and may plant only annual crops on it. For land not used as specified, the right to utilization is terminated ahead of schedule as per Paragraph 3, by decision of the land commission on the basis of a protocol drawn up in accordance with Article 7, Paragraphs 2 and 3."

### Resolution 65

92BA0962B Sofia DURZHAVEN VESTNIK  
in Bulgarian No 34, 24 Apr 92 pp 2-13

[Council of Ministers Resolution No. 65 of 21 April 1992 on Amending and Supplementing the Resolution on the Application of the Law on the Ownership and the Utilization of Farmland, signed by Filip Dimitrov, prime minister, and Konstantin Mukhovski, chief secretary of the Council of Ministers; the Resolution on the Application of the Law on the Ownership and the Utilization of Farmland was published in JPRS-ER-91-077-S, 7 June 1991, on pages 1-10, and the Amendments to the Resolution from 26 July 1991 were published in JPRS-EER-91-141-S, 23 September 1991, on pages 37-38.]

[Text]

### COUNCIL OF MINISTERS RESOLUTION

**Section 1.** Article 2 is amended to read as follows:

1. Paragraph 1 is amended to read as follows:

"(1) Citizens, the state, municipalities, and juridical persons may acquire and gain ownership rights over farmland."

2. In Paragraph 2, Item 2, the words "juridical persons with foreign participation" are replaced by "juridical persons with foreign participation in excess of 50 percent."

3. Paragraph 3 is amended to read as follows:

"(3) Foreign citizens who inherit farmland must, by law, transfer it to private citizens, to the state, to municipalities, or to juridical persons of their choice within three years after probate. Should they fail to transfer such land within the stipulated time, the land will be bought out within a period of three months by the municipal people's council at prices set by the Council of Ministers. Should the municipal people's council refuse



to purchase the land or the term has expired, the land shall be purchased by the state."

4. Paragraph 4 is amended to read as follows:

"(4) Foreign juridical persons and foreign citizens may acquire the right to use and other limited material rights on farmland under the conditions and procedure stipulated by the law."

Section 2. Article 3 is amended to read as follows:

"Article 3. (1) The owner is free to choose the means of utilization of farmland according to its purpose.

"(2) Land restored as per Article 10, Paragraph 5 of the ZSPZZ [Law on the Ownership and the Utilization of Farmland], classified as a forest in the sense of the Law on Forests, shall be managed and utilized in accordance with the stipulations of the Law on Forests and the Law on Hunting.

"(3) The land on which the right of ownership has been restored as per Article 10, Paragraph 7 of the ZSPZZ shall be managed and utilized in accordance with the stipulations of the Law on the Territorial and Settlement Structure [ZTSU].

"(4) The owner of farmland may build structures and installations related to its use under the conditions and procedure stipulated by the ZTSU and in accordance with the stipulations of the Law on the Protection of Farmland and Pastures and the Law on Forests."

Section 3. Article 5 is amended to read as follows:

"Article 5. Owners and users must protect archaeological sites and monuments of culture, and reclamation, electric power, and other systems and installations, and geodesic and boundary markers located on their property, and must not obstruct other owners, users, or officials in the use and maintenance of the same. Owners and users must grant access to officials for the purpose of observation and preliminary studies of archaeological sites."

Section 4. In Article 6, Paragraph 3, first sentence, add the words "in accordance with market prices for the respective area" after the words "at prices set by the Council of Ministers."

Section 5. Articles 7, 8, 9, and 11 are deleted.

Section 6. Article 12 is amended to read as follows:

"Article 12. (1) In the case of individuals as per Article 10a, Paragraph 3 of the ZSPZZ, the three-year term for transferring ownership begins on the day the resolution of the municipal land commission or of the court restoring the right of ownership is enacted.

"(2) In the case of violation of the deadline as per Paragraph 1, the farmland shall be purchased in accordance with the stipulations of Article 2, Paragraph 3."

Section 7. Article 13 is amended to read as follows:

"Article 13. (1) A petition and two copies must be submitted for restoration of the right to ownership, to include the following:

"1. Name of the land commission;

"2. The full name (the appellation), address (seat), and EGN [civil identification number] of the petitioner and his representative, if such exists;

"3. The full name of the heir;

"4. A description of the property—land, area, size, type of cultivation of the property (field, meadow, perennial crops), former neighbors, old real boundaries that still exist, data on the possibility of restoring the boundaries, property within the building limits of settlements, and terrain as per Section 4 of the Transitional and Concluding Clauses of the ZSPZZ, farmland included free of charge in the state forest fund, land taken by the state and converted into farmland, lots in abandoned or vacated settlements (villages and districts), including those outside the construction limits of settlements, and so forth;

"5. The nature of the petition;

"6. A list of appended proofs;

"7. The signature of the petitioner or his representative.

"(2) The following must be attached to the petition:

"1. Written proof of the right of ownership in the sense of Article 12, Paragraph 3 of the ZSPZZ;

"2. A notarized declaration as per Article 12, Paragraph 3 of the ZSPZZ if no proof as per Item 1 can be submitted;

"3. The certificate of inheritance, when the restoration is requested by an heir (heirs) of a deceased owner.

"(3) The declaration as per Paragraph 2, Item 2 must include the following:

"1. The full name, address, and EGN of the declarer;

"2. The full name of the owner (the heir);

"3. A description of the property: land, site, dimensions, and other data as per Paragraph 1, Item 4;

"4. A statement that the declarer knows that he is subject to penal liability as per Article 313 of the Penal Code if he provides false data.

"(4) If the restoration of the right of ownership of property within the building boundaries of settlements is requested, the petition must include a certificate issued by the technical service of the municipality to the effect that the property is included in the cadastral plan."

Section 8. Paragraph 2 of Article 14, Paragraphs 2, 3, and 4 of Article 16, and Article 17 are deleted.

Section 9. Article 18 is amended to read as follows:

"Article 18. (1) Within six months of the enactment of the ZSPZZ, the municipal council shall submit to the municipal land commission data on changes that have occurred in the farmland by area, to include the following:

"1. The boundaries of the land area, the forest fund, and the settlement at the time of the establishment of the TKZS [labor cooperative farm] and the DZS [state farm] and the enactment of the ZSPZZ;

"2. The size of farmland in the year of establishment of the TKZS and the DZS, by type of ownership;

"3. The size of the reduction of farmland after the founding of the TKZS and the DZS, as a result of:

"a. Land condemned for state and public needs, including land within the construction boundaries of settlements;

"b. Dams, canals, pumping stations, roads, greenbelts, industrial buildings, equipment, installations, and other built-up facilities of the TKZS, the DZS, agricultural firms, and cooperative enterprises;

"c. Land as per Article 24, Paragraphs 3 and 4 of the ZSPZZ. Archaeological sites and monuments of culture are defined in accordance with a list drawn up by the regional historical museums and approved by the Archaeological Institute and Museum of the Bulgarian Academy of Sciences and the National Institute of Cultural Monuments;

"d. Land granted for use as per Section 4 of the Transitional and Concluding Clauses of the ZSPZZ;

"e. Land used by scientific, scientific-production, and educational establishments, by seed producers and livestock-breeding farms, by prisons, and by forest and game farms, in amounts stipulated by the Ministry of Agriculture;

"f. Land recognized as a single farmstead and residence of members of the TKZS;

"g. Land under consideration for use in meeting nonagricultural requirements of the state and townships if the procedure for the approval was initiated prior to the enactment of the ZSPZZ and has not been completed;

"h. Land that is part of the state forest fund, with the exception of land as per Article 10, Paragraph 5 of the ZSPZZ;

"4. The increased amount of farmland after the establishment of the TKZS and the DZS through:

"a. Development of new farmland;

"b. Recultivation of spoiled land;

"c. Exclusion from the state forest fund;

"d. Exclusion of land from the construction limits of settlements;

"5. The amount of available farmland for restoration, by category.

"(2) Should the municipal council disagree with the lists submitted to it as per Paragraph 1, Item 3, letter 'c,' it shall submit a proposal citing its reasons to the Ministry of Culture, which must issue a ruling within a period of two weeks.

"(3) The limits of the settlement area, the state forest fund, and the construction boundaries of the settlement and of farmland shall be determined in accordance with the cadaster and other sources and entered in a topographic map on a scale no smaller than 1:10,000.

"(4) Land boundary disputes shall be resolved in accordance with Section 3 of the Transitional and Concluding Clauses of the ZSPZZ."

Section 10. New Articles 18a, 18b, 18c, 18d, 18e, 18f, 18g, 18h, and 18i are created, as follows:

"Article 18a. All real boundaries of property on the terrain are those classified as topographic elements, such as field boundaries, roads, fences, perennials, banks along waterways and water areas, ravines, gullies, and other similar features, provided their location was not changed after the land was included in the TKZS or the DZS.

"Article 18b. The old real property boundaries restorable on the terrain are those that can be identified through the cadastral plan of the settlements, the land consolidation plan, or a partial land-regulation plan made prior to the establishment of the TKZS or the DZS.

"Article 18c. The municipal land commission will select contractors through bids for all technical projects related to the restoration of ownership of farmland. Should only one candidate participate in an auction, a contract shall be signed with him.

"Article 18d. (1) By itself or with the assistance of the executor, the municipal land commission shall determine the territories inside which land ownership is restored within:

"1. The boundaries on which ownership is restored as per Section 4 of the Transitional and Concluding Clauses of the ZSPZZ;

"2. The old real boundaries existing on the terrain, including those as per Article 10, Paragraphs 5, 6, 7, and 9 of the ZSPZZ;

"3. The old real boundaries that are restorable on the terrain, including those as per Article 10, Paragraphs 5, 6, 7, and 9 of the ZSPZZ;

"4. The boundaries of territories for which a land division plan must be drafted.

"(2) The boundaries as per the preceding paragraph shall be approved by resolution and reflected on the map as per Article 18, Paragraph 3.

"Article 18e. (1) The municipal land commission shall consider petitions as per Article 13 and allocate the property described in them by area within the territories stipulated in accordance with Article 18d, Paragraph 1, for which a list of names shall be drawn up. The list, with a copy of the map as per Article 18d, Paragraph 2, shall be displayed in a public place in the settlement of the respective land area.

"(2) In the distribution as per Paragraph 1 in the territories listed as per Article 18d, Paragraph 1, Items 2 and 3, the property or parts of the property for which the right of ownership cannot be restored within the existing or restorable old real boundaries, due to circumstances stipulated in Article 10b, Paragraph 1, Article 24, Paragraphs 2, 3, and 4, and Article 29, Paragraph 1, of the ZSPZZ, shall be defined. In the case of such statements, the commission shall inform the interested individuals, in accordance with the Civil Procedure Code (GPK).

"(3) Within 14 days of the day of receipt of such information, the individuals as per Paragraph 2 shall submit a written request to the municipal land commission announcing their choice of the means of compensation as per Article 10b, Paragraph 1 of the ZSPZZ.

"(4) The municipal land commission shall mark the old real boundaries of the property that still exist and trace on the terrain the restorable boundaries.

"Article 18f. (1) The category of farmland for each separate owner is established on the basis of data on the location of the properties listed in the petition and the map showing the categories of farmland.

"(2) The lands of owners for which data on their precise location in a given site or area are lacking are assigned an equivalent rating by location and category.

"(3) The land categories as per the preceding paragraph are defined in proportion to the breakdown of their categories at the site or, respectively, the land area.

"(4) If the farmland has been built up or is subject to measures that prevent the restoration of ownership, if there are no data on the quality of the land, its category will be determined in accordance with the procedure stipulated in the preceding paragraphs.

"Article 18g. (1) Within one month from receipt of the petition, the municipal land commission will issue a ruling on restoring the right to ownership within the previous real boundaries that still exist or are restorable; in this ruling, it will describe the size and the category of the property, its location, boundaries, neighbors, and ownership restrictions, indicating the reasons for the restrictions.

"(2) If the right of ownership is restored on the basis of a land division plan, within the deadline stipulated in Paragraph 1, the municipal land commission will issue a resolution determining the size and the category of the land to which the petitioner is entitled.

"(3) Resolutions on the preceding paragraphs will be reported to the interested individuals in accordance with the GPK procedure.

"Article 18h. (1) In the cases stipulated in Article 10, Paragraphs 5, 6, 7, and 9 of the ZSPZZ, the municipal land commission will issue a resolution as per Article 18g, Paragraph 1.

"(2) On the basis of the resolution as per the preceding paragraph, with which the right of ownership within the construction boundaries of the settlement is restored, the property will be deleted from the state property records as per Article 88 of the Regulation on State Property.

"Article 18i. (1) Owners of farmland whose rights are not restored as per Article 17, Paragraph 1 of the ZSPZZ may submit a petition to the municipal land council, asking for the right to use farmland.

"(2) The municipal land commission shall grant to the owner the right of utilization of farmland of a size based on enacted resolutions as per Article 18g, Paragraph 2 and the existing information on the reduced farmland in the land area. The location of the land to be granted is determined, whenever possible, in accordance with the requirements of Article 23, Paragraph 2 and Article 23a. Users may not engage in selling or signing preliminary contracts as per Article 19, Paragraph 1 of the Law on Obligations and Contracts Involving Farmland until ownership has been restored by resolution as per Article 27."

**Section 11.** Article 19 is amended to read as follows:

1. Paragraph 1 is amended to read as follows:

"(1) Should it be established that the amount of the farmland within the area of the land division plan has been reduced, the municipal land council shall set a coefficient with the help of which the amount of land to be restored to each owner can be determined. The coefficient shall be established by dividing the amount of available farmland by the size of the land as determined with resolution based on Article 18g, Paragraph 2."

2. In Paragraph 2, first sentence, the words "enacted resolutions as per Article 17" are replaced by "enacted resolutions as per Article 18g, Paragraph 2."

3. The third sentence of Paragraph 3 is deleted.

4. A new Paragraph 4 is created to read as follows:

"(4) The resolution as per Paragraph 2 is reported to the interested individuals as per the GPK. Within 14 days of the date of informing the interested individual, the latter must file a written request to the commission,

announcing his choice of compensation as per Article 15, Paragraph 2 of the ZSPZZ."

**Section 12.** Article 20 is amended to read as follows:

"Article 20. (1) The distribution of the land, as an activity aimed at restoring ownership of farmland, shall include the drafting of a plan for the division of the land, the announcement, the approval, the tracking, the coordination of the boundaries, the assumption of possession, and the registration of the property in the cadaster.

"(2) The execution of the activities stipulated in the preceding paragraph shall be based on the technical assignment, consistent with the specific conditions set by the municipal land commission.

"(3) The technical assignment on the formulation of a plan for the division of the land by the municipal land commission shall include the following:

"1. The parts of the land area in which municipal and state land is to be located;

"2. The width of rural roads and easements;

"3. In how many sites within the limits of the land-distribution plan the property of the owners is to be located;

"4. Which of the existing improvements must be retained and which new improvements must be contemplated."

**Section 13.** Article 21 is deleted.

**Section 14.** In Article 22, first sentence, the words "actual" and "in two phases" are deleted.

**Section 15.** Article 23 is amended to read as follows:

"Article 23. (1) The formulation of a land-distribution plan shall include the following:

"1. A reflection of the boundaries of farmland for which a land-distribution plan is drafted as per Article 18d, Paragraph 1, Item 4;

"2. The establishment of the location of the necessary rural roads and easements. The proposals on the structure of the territory on the basis of available information on land-improvement elements and antierosion, reclamation, and other environmental protection measures;

"3. The establishment and adoption of a coefficient for reducing the size of farmland;

"4. The planning of the boundaries of the properties based on the resolutions of the municipal land commission as per Article 18g, Paragraph 2 or Article 19, Paragraph 2, in accordance with the land consolidation principles;

"5. The defining of restrictions on ownership, with the indication of grounds for said restrictions.

"(2) The division of the land in territories of reclamation systems, areas in perennial crops, rice fields, and covered greenhouse areas shall be done separately.

"(3) The location of the property granted as per Article 18i shall be retained whenever possible, provided the stipulations of the preceding paragraph have been observed, as per Article 18f, along with the principles for land consolidation. In such cases, only the boundaries must be corrected."

**Section 16.** A new Article 23a is being created to read as follows:

"Article 23a. The basic principles in land consolidation include the following:

"1. The owner must be given land of equal value in terms of size and quality, if possible in the area where most of his property was previously located;

"2. The property must be planned in a way convenient for the cultivation of the land, with secured access;

"3. Smaller property must be planned, if possible, in the vicinity of settlements."

**Section 17.** Article 24 is amended to read as follows:

"Article 24. In the course of the formulation of the plan for the distribution of the land, the municipal land commission shall control the implementation of the technical assignment. For any features that have been noticed and for established differences, protocol resolutions must be issued by the executor and reflected in the plan."

**Section 18.** The following amendments are made to Article 27:

"1. Paragraph 1 is amended to read as follows:

"(1) On the basis of the enacted land-distribution plan, the municipal land council shall pass a resolution on restoring the right of ownership, in which it shall describe the size, the property category, its location, boundaries, and neighbors, as well as ownership restrictions, indicating the reasons for said restrictions."

2. The second and third sentences of Paragraph 2 are deleted.

**Section 19.** A new Article 27a is created, to read as follows:

"Article 27a. (1) The municipal land commission shall draw up a list in which it will stipulate land areas with available state and municipal land that shall be granted to the owners as compensation in the cases stipulated in Article 18e, Paragraph 2 and Article 19.

"(2) The municipal land commission shall issue a resolution on compensation with land from the state and



municipal land fund of the respective municipality. The resolutions shall be reported to the individuals as per the GPK.

"(3) If the neighboring land area is in a different municipality, the municipal land commission with which the petition was filed will officially determine the possibility of providing compensation with state or municipal land and inform the interested people of the results as per the GPK.

"(4) Owners of farmland who were not compensated as per the preceding paragraphs will be compensated with state and municipal land in another settlement, in accordance with a procedure stipulated by the minister of agriculture."

**Section 20.** Article 28 is amended to read as follows:

"Article 28. (1) The restoration of land to owners of farmland that was granted to citizens for use on the basis of the laws stipulated in Section 4 of the Transitional and Concluding Clauses of the ZSPZZ shall be based on the procedures and conditions stipulated in the regulation.

"(2) In the case of areas that include land as per Paragraph 1, a separate plan shall be drawn up on a topographic-geodesic and cadastral basis, on a scale no smaller than 1:2,000. The plan shall be approved by resolution of the municipal land commission and suitably publicized in the mayoralty building."

**Section 21.** Article 30 shall be amended to read as follows:

"1. A new Paragraph 3 is created, to read as follows:

"(3) Whenever citizens unite within cooperatives or societies for the joint cultivation of farmland, based on their written request, the common boundary of their property for joint cultivation will be marked without marking the boundaries of the individual pieces of property as found in the land-distribution plan."

2. The present Paragraph 3 becomes Paragraph 4.

**Section 22.** The following amendments are introduced in Article 31:

1. Paragraph 1 is amended to read as follows:

"(1) For technical reasons, a difference of up to 5 percent in the amount of land subject to restoration and the land actually obtained may be tolerated, with the exception of land restored as per Article 18b, through the cadastral plan of the settlement. For such differences, the municipal land commission shall adopt a table for determining the amount of compensation to the owners on the basis of prices set by the Council of Ministers and based on the market prices for the respective area."

2. In Paragraph 2, the words "Articles 27 and 28" will be replaced with "Article 18g, Paragraph 1 and Article 27."

**Section 23.** Paragraph 3 of Article 32 is amended to read as follows:

"(3) The taking of possession of land by members of cooperatives or societies for the joint cultivation of farmland may also take place jointly in the presence of an authorized representative of the cooperative or the society."

**Section 24.** In Article 33, Paragraph 3, first sentence, the words "included in the land-distribution plan" are replaced with "in which the taking of possession will occur."

**Section 25.** Articles 34 and 35 are deleted.

**Section 26.** A new Paragraph 5 is added to Article 36, to read as follows:

"(5) The substitution of farmland as per Section 10 of the Transitional and Concluding Clauses of the ZSPZZ will be based on the stipulations of Paragraphs 2, 3, and 4."

**Section 27.** At the end of Paragraph 4, Article 41, add "according to the market prices for the respective area."

**Section 28.** The following amendments are made to Article 42:

1. Paragraph 2 is amended to read as follows:

"(2) The resolution as per Paragraph 1 shall be announced to those interested, in accordance with the procedure of the GPK."

2. Paragraph 3 is deleted.

**Section 29.** The following changes are made in Article 45:

1. In Paragraph 1, the words "under the stipulations of Article 19, Paragraph 1" are deleted.

2. In Paragraph 2, the words "as per Article 27" are replaced with "as per Article 18g, Paragraph 1 or as per Article 27."

**Section 30.** Article 46 is amended to read as follows:

"Article 46. (1) The rights to the use as per Article 26 of the ZSPZZ of land from the State Land Fund is granted by the Ministry of Agriculture, and of land belonging to the municipal land fund, by the municipal land commissions, after they have been defined by the municipal council under the stipulations of Article 38.

"(2) The right to ownership of land as per Paragraph 1 may be acquired free of charge by individuals who have cultivated such land for more than 10 years and is confirmed by decision of the municipal council. The right to ownership of land belonging to the State Land Fund may be acquired free of charge following the preliminary agreement of the Ministry of Finance. Within one month of the issuing of the resolution, the

municipal council must inform the Ministry of Agriculture on the handling of the land belonging to the State Land Fund."

**Section 31.** A new Article 47a is created to read as follows:

"Article 47a. The right to ownership of farmland confiscated from the Bulgarian Orthodox Church and other religious communities, cooperatives, and other organizations may be restored at their request, unless buildings with no agricultural purpose have been legally built after the confiscation of the land or if the land has been granted to individual citizens. In such cases, the respective organizations are granted property of equal value from the state or municipal land fund. If no such land is available, the compensation of the owners takes place under the conditions and procedures stipulated by law."

**Section 32.** A new Chapter 4 is created, to read as follows:

#### "Chapter 4

"Distribution of Property of Cooperative Labor Farms and Other Organizations Established on Their Basis"

**Section 33.** Article 48 is amended to read as follows:

"Article 48. (1) The property of the cooperative labor farms and other organizations founded on their basis consists of the right to ownership and other material rights over durable and nondurable assets, the rights of trademarks, products of scientific and development activities, program products, patents, licenses, know-how, securities, share participation in companies, and other rights and obligations.

"(2) All assets as per the balance sheet on the date of distribution shall be subject to division into shares after subtracting obligations to the state, the banks, and other juridical and physical persons.

"(3) Subtracted from the property as per the balance sheet prior to distribution are the following:

"1. Cash funds obtained by the TKZS and the other organizations founded on their basis for land sold, regulated or unregulated, or as compensation for confiscated land;

"2. State property granted via machine tractor stations (MTS), the DZS, and other state organizations;

"3. Projects and installations built with budget funds, included in the balance sheet, if obtained free of charge.

"4. By decision of the liquidation council, the value of real estate used for providing services to the settlement or farmland (roads, bridges, cultural-consumer buildings, and others) may be excluded from the property before distribution into shares. Such property may be transferred free of charge or against payment to the

municipalities and the state. If it is for payment, the obtained amounts must be added to the property as per Paragraph 2.

"5. After the right of ownership of property confiscated by the TKZS or organizations founded on their basis or transferred to other organizations has been restored, it is added to the property as per Paragraph 2. The property for which the right of ownership has been restored after shares have been established is further distributed under the conditions and procedures of the initial distribution.

"6. The value of the share participation of the TKZS or that of its legal heirs, in the cases stipulated in Article 28, Paragraph 3, of the ZSPZZ, equals the updated residual value of the property at the time of its assignment to the DZS, the MTS, or other organizations.

"7. The right to ownership of agricultural machinery and equipment transferred free of charge to the MTS or other organizations and that have been scrapped is restored by granting the owners machines and equipment of similar model and suitability. In such cases, the value of the agricultural machinery and equipment assigned to the MTS is amended in accordance with current market prices, taking into consideration their residual value at the time of the transfer.

"8. Durable assets of the TKZS and the other organizations founded on their basis may be sold only at an auction by decision of the liquidation council, with the exception of those for which a special procedure is stipulated. The auction is conducted by the liquidation council in accordance with the procedure stipulated in Article 43, Paragraph 2.

"9. The value of the property to be distributed must reflect the differential in the price of the items that were auctioned off. If the sale takes place after the distribution of the property, the shares of the owners are amended by the respective difference.

"10. The sale of purebred livestock and herds must be cleared with the Ministry of Agriculture."

**Section 34.** Article 49 is amended to read as follows:

"(1) Prior to the distribution of the property by shares, the durable and nondurable assets are appraised, including notes due and payable.

"(2) The evaluation is preceded by a determination of the actual availability of the assets in physical terms and value by making an inventory in accordance with the procedures stipulated in the Law on Accountability. The results of the inventory are recorded before the evaluation. The data from the inventory lists are used in the evaluation.

"(3) The evaluation of the property to be distributed takes place as determined by the liquidation council and by an independent expert commission or firm (company) with expertise in that area, which has obtained the

permission of the Ministry of Agriculture, coordinated with the Ministry of Finance.

"(4) Commissions of experts must consist of no fewer than three experts with the necessary educational backgrounds and qualifications to appraise the property. At least one of them must be an accountant meeting the stipulations of Order No. 146 of the minister of finance of 23 March 1991 (DURZHAVEN VESTNIK No. 81, 1991). Individuals who have the right to a share of the TKZS property may not be used as experts. The membership of the expert commissions is set by the liquidation council.

"(5) The evaluation protocol, as assessed by the liquidation council, must be submitted for a ruling to be made by the expert council appointed by the minister of agriculture, coordinated with the minister of finance. The evaluation is confirmed by decision of the liquidation council and is subject to a subsequent financial audit."

**Section 35.** New Articles 49a and 49b are created, to read as follows:

"Article 49a. (1) The evaluation of the various types of property is based on the following rules:

"1. Durable assets are evaluated only when they are personally owned, including those located abroad or rented out (leased) to juridical and physical persons;

"2. The evaluation of the durable material assets is based on technical standards and conditions, the residual time of exploitation, and the sale price or price at acquisition at the date of the evaluation. The choice of the type of price is determined by the experts. The value of the durable imported material assets is determined on the basis of foreign trade prices at the date of the evaluation and the market rate of exchange of the Bulgarian National Bank (BNB). In the case of durable material assets that are no longer produced and the sales price of which cannot be used, the evaluation is based on a similar locally produced item or, if no such item exists, on an imported one. The value of the durable material assets, as determined by the evaluation, is considered the initial value of the respective durable asset. The amortization up to the time of the evaluation is deleted. The evaluation of individual durable material assets is done as follows:

"a. Buildings, sites, silage pits, irrigation systems, underground power grids, water mains, and so on are evaluated by determining the types of work involved in the building of such projects. The invested materials, labor, and services are appraised on the basis of the market prices, standards, and rates operating at the time of the assessment. The obsolescence of buildings is determined and deducted in accordance with the type of structure (frame, half-brick, brick), the time and means of utilization, and the existing standards. The price of objects of administrative, social, and cultural purposes

and so on may not be lower than the base price determined in accordance with the Regulation on Base Market Prices of Real Estate (DURZHAVEN VESTNIK No. 65, 1991; amended and supplemented in Nos. 77 and 93, 1991), and, in the case of newly erected structures, their full construction cost;

"b. Machines, equipment, installations, transport facilities, and farm inventory are assessed on the basis of the purchase or sale prices of the date of the evaluation, taking into consideration technical standards and condition and residual useful life;

"c. Developed and undeveloped land included in the construction boundaries of settlements and land outside the construction boundaries of settlements, condemned for nonagricultural purposes, is rated in accordance with the procedure of the Regulation on Base Market Prices of Real Estate;

"d. Newly developed and productive perennial crops are assessed in accordance with the procedure of the Regulation on Base Market Prices of Perennial Crops (DURZHAVEN VESTNIK No. 65, 1991), these prices being considered minimal. The sale price of perennial crops is determined after the experts have determined the cost of their development and potential yields, the prices of the produce, and the production costs for the remaining useful life at the date of the evaluation. The sale price cannot be below the minimum price;

"e. Productive, functioning, and young breeding stock is assessed after the experts have determined its condition and potential productivity (the productivity of the animals, the residual usefulness and prices of marketing the goods, minus the corresponding expenditures, based on market prices at the date of the evaluation). The price may not be below the market price for purebred breeding stock and, for the others, the market price per kilogram live weight for the respective area at the date of the evaluation.

"f. Unfinished crop production is assessed on the basis of its actual value. The condition and possibility of its utilization are determined with a protocol drawn up by the inventory commission. Should there be changes in the prices of the invested materials, fertilizer, chemicals, or fuels, and in the rates, tariffs, and gradations in the payment for labor and services, the actual production costs are correspondingly amended;

"g. Unfinished material durable assets are assessed separately for construction and installation works, taking into consideration their actual condition and price of acquisition at the date of the evaluation. Procured machines and equipment included in the cost of the incomplete durable assets are assessed on the basis of the prices prevailing at the date of the assessment, taking into consideration their actual condition, level of suitability, and possibilities for their utilization;



"h. Durable assets tied to farmland, which are classified as improvements (irrigation installations, stationary and semistationary irrigation systems, and others) are assessed in accordance with their technical standards and condition, residual time of utilization, and the price at which they could be purchased as of the date of the evaluation;

"3. Durable nonmaterial assets are assessed by taking into consideration their standard and condition and the possibility of future economic utilization. New evaluation is required only in the case of durable nonmaterial assets, the value of which is entered on the balance sheet at the time of the evaluation;

"4. Durable financial assets (share participation in the capital of companies in leva or foreign exchange, stocks, or bonds) are assessed on the basis of the market rate of exchange of the foreign currency at the time of the assessment and, in the case of stocks and bonds, on the basis of nominal value or sale price;

"5. Nondurable assets are assessed in accordance with the principles and prices used in the case of durable assets and in accordance with the following requirements:

"a. Material stocks are assessed on the basis of their actual condition, level of adequacy, possibility of utilization, and cost of acquisition or sale price at the time of the assessment. The choice of the type of price is determined by the experts in accordance with the specific situation relative to the various types of material stocks;

"b. Cash and notes receivable in foreign exchange at the time of assessment are rated on the basis of the exchange rate of the BNB if their value is below that at which they are assessed before the time of the assessment;

"c. Debts in foreign exchange are assessed on the basis of the market exchange rate of the BNB if their value is higher than the value at which they are rated before the time of the assessment;

"6. Assets acquired free of charge are assessed on the basis of sale prices or prices of acquisition during the period of the assessment, as determined by the experts.

"(2) In auction sales, the initial price of the item is determined by independent experts, taking into consideration the property value, the amount of profit, and the return on invested funds for the purchase of the item and in accordance with the following rules:

"1. Individual farm projects (vineyard, truck garden, livestock farm, livestock-raising complex, mill, dairy, water reservoir, dam lake, and so forth, with the help of which specific farming activities can be carried out) and livestock are assessed with the mandatory consideration of their potential profitability. The potential profitability is determined by:

"a. Technical level, condition of the project, possible income from the marketing of the produce, operational costs, financial and unplanned expenditures, taxes owed and paid, and amount of profit;

"b. The value of the output, based on market prices at the time of the assessment;

"c. The necessary material costs, defined in physical terms according to their average amount for the previous three years and rated at market prices at the time of the assessment. Expenditures for labor and financial and unplanned expenditures are determined in accordance with the norms, rates, tariffs, and so on prevailing at the time of the assessment;

"2. Taxes and withholdings from profits are based on the existing rates at the time of the assessment;

"3. The amount of the profit is based on income and expenditure calculations.

"Article 49b. (1) Any increase or decrease in the value of the property after the assessment is entered in the books as an increase or decrease in fixed assets.

"(2) The results of the appraisal are not indicated in the record of income and expenditures and do not determine the final result, with the exception of the results of the appraisal, based on economic activities for the current year and negative differences in securities and changes in foreign currency rates.

"(3) The value of the owned capital, amended after the appraisal, minus the cost of invested funds, is used in defining the shares."

**Section 36.** Article 50 is amended to read as follows:

"Article 50. The amount of property shares in the TKZS and other organizations founded on their basis is determined by the contribution made by the people in the acquisition of the property—contributed land, labor seniority, and unpaid inventory, with an equal correlation between the contribution from the land contributed and the labor seniority, after deducting unpaid inventory contributions."

**Section 37.** New Articles 50a, 50b, and 50c are created, to read as follows:

"Article 50a. The amount of farmland included in the TKZS or the DZS is determined by the municipal land commission for the individual owners. The area of farmland is computed in terms of standard decare, with a compensatory evaluation. The standard decare are multiplied by the number of years, starting from the inclusion of the land into the TKZS or the DZS and extending to the termination of the organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ. The thus-obtained indicator is the basis for participation in the distribution of the part of the property constituted by the land. Until the municipal land

commission has passed its ruling as per Article 18g, the computations will be based on preliminary data.

"Article 50b. (1) As a basis for the division of the property, the labor participation of the cooperative farmers is determined for the entire period from the creation of the farm to the time of the division of the property into shares. The labor participation is measured in terms of man-days for the duration of the time worked at the farm, including sick and maternity leave. If the invested labor is computed in labor days, its conversion into man-days is based on individual coefficients for the entire farm by year. The summing-up indicator for determining the labor participation in the division of the property into shares is the sum total of man-days for the period in which each cooperative farmer had a labor participation.

"(2) Labor participation is not taken into consideration if it was for a period of less than five years and if the individual did not contribute land or inventory. Blue-collar and white-collar workers who have not contributed land and inventory but have worked at least five years in more than one TKZS or in any other organization established on their basis have the right to a share of the corresponding farm in proportion to the length of their working time.

"Article 50c. (1) The amount of the equipment contribution made by the individual cooperative farmer is established on the basis of documents in the files.

"(2) If no written proof is available, the mandatory inventory contribution is determined by multiplying the size of the land by the standard stipulated for each settlement, in leva per decare. The rate applied in contributing inventory to the cooperative in leva per decare is determined on the basis of a protocol approved by the liquidation council. If no written proof on additional inventory contributions is available, the claims of the individual are processed on the basis of the general claims procedure.

"(3) The value of the contribution of inventory is recomputed in terms of the prices at the time of the assessment; should data on the contributed inventory be lacking, its overall value is increased by the inflation index set by the National Statistical Institute for the period from the contribution of the inventory to the time of its assessment. The updated value of unpaid inventory contributions is deducted from the property and is restored as the share of those legally entitled, without being used as a base for participation in the distribution of the property."

**Section 38.** Article 51 is amended to read as follows:

"Article 51. (1) The following individuals have the right to a share of the property:

"1. Individuals who have contributed land and inventory and have participated with their work;

"2. Individuals who have contributed land and inventory but have had no labor participation;

"3. Individuals who have allowed the TKZS to use their land;

"4. People with labor participation in excess of five years, without having contributed land and inventory. The number of years is determined on the basis of the established mandatory minimum of labor days or man-days.

"(2) The following are not entitled to a share of the property:

"1. Individuals who have not contributed land and inventory and have worked less than five years in a TKZS or an agro-industrial complex (APK);

"2. Specialists and workers in industrial, auxiliary, and other nonagricultural activities of the TKZS, who worked on the basis of a labor contract, without having established membership;

"3. Individuals who were employed on the basis of a civil contract;

"4. Individuals who earned wages from the TKZS or the APK for the time in which they performed sociopolitical activities.

"(3) Blue-collar and white-collar workers who worked in the APK and their branches have the right to shares for labor participation in the TKZS:

"1. With which the blue-collar or white-collar worker maintained membership at the time of the division of the property into shares;

"2. From which the worker or employee retired before obtaining a share for his labor participation;

"3. Where the headquarters of the APK (or its branches) were located when labor and legal relations were terminated prior to or during the liquidation of the APK.

"(4) Members of joint labor cooperative farms have the right to shares for labor participation as per Paragraph 3.

"(5) The heirs of cooperative farmers have the right to a share for labor participation based on the labor participation of the legator.

"(6) The time worked in a DZS that was established on state land and in an MTS is not recognized in computing labor-participation shares unless the time worked in the MTS was by mechanizers and the result of reorganizations of the TKZS or the APK."

**Section 39.** Article 52 is amended to read as follows:

"Article 52. (1) The share of each owner will be part of the overall value of the property, regardless of its natural and physical content. The share of the property obtained

by each individual will be expressed in a specific number of shares after the value per share has been determined. The sum of the values of the shares owned by an individual will constitute his share.

"(2) The individuals stipulated in Article 57, Paragraph 1 of the ZSPZZ have the right to obtain their share until liquidation. The refund will be in kind and in cash.

"(3) As the equivalent of his share, an individual may obtain as his own property or as co-owned property machines and inventory, livestock, fertilizer, seeds, perennial crops, and reclaimed installations or other installations permanently set up on his restored land, materials, and so forth.

"(4) If the restored land includes perennials, stationary or semistationary irrigation systems, and other improvements owned by the TKZS, their value will be paid by the landowners or deducted from their shares. The evaluation of the shares and improvements will be based on the same method."

**Section 40.** Articles 53 and 54 are amended to read as follows:

"Article 53. (1) The property of intercooperative enterprises—poultry combines, hog-breeding complexes, calf-raising farms, and so on—established on the basis of TKZS share deposits shall be distributed by agreement among the parties after settling obligations to the state, banks, and juridical and physical persons. The share participation of individual TKZS's or their legal successors shall be based on the amount of share contributions reassessed on the basis of market prices and one-half of the increase in the property of the intercooperative enterprise. The balance of the property shall be distributed on the basis of labor seniority as per Article 50b.

"(2) If the intercooperative enterprise involves the participation of the state, the share of the state and the respective part of the increased property are subtracted in advance, and the balance is distributed as per the preceding paragraph.

"(3) In coordination with the minister of finance, the minister of agriculture appoints the experts who determine the amount of the participation of the state.

"Article 54. The property of the specialized enterprises engaged in industrial and auxiliary activities, construction, repair and maintenance of agricultural equipment, material and technical supplies, commodity transportation, and so on developed by the APK must be returned to the TKZS or its legal successors after the share of the state as per Article 53, Paragraph 2 is withheld and the obligations to the state, banks, and juridical and physical persons are met. The share of the accrued property is determined by agreement among the interested parties, on the basis of their contributions to its creation; if agreement is not reached, the share is determined on the basis of the general claims procedure. Should the property of specialized enterprises be indivisible, ownership

is established in terms of share participation. The restored part of the property is added to the property of the TKZS subject to share distribution."

**Section 41.** A new Article 54a is created to read as follows:

"Article 54a. (1) The property of agricultural organizations established through the consolidation of the TKZS and the DZS is divided among the participants after its value has been adjusted on the basis of the market prices at the date of the distribution.

"(2) The property of the former DZS or that of the state on the date of the merger is subtracted and its value is adjusted on the basis of the prevailing market prices on the date of distribution.

"(3) Property created during the period of joint functioning of the TKZS and the DZS is divided on the basis of an equal correlation between the contribution of land and labor seniority.

"(4) The share of the property of the land that was used is distributed between the TKZS and the state on the basis of the quantity, quality, and number of years of utilization of the land. The part of the property of the state land used is not subject to share distribution among individuals as per Article 27, Paragraph 1 of the ZSPZZ."

**Section 42.** Article 55 is amended to read as follows:

"Article 55. (1) The division of the property into shares is confirmed by a decision of the liquidation council, subject to subsequent financial audit, until the organization is abolished.

"(2) In determining the share of the property of a deceased owner, the decision applies equally to all heirs."

**Section 43.** Article 56 is deleted.

**Section 44.** Chapter 4 becomes Chapter 5 and its heading is amended as follows: "Land-Ownership Organizations."

**Section 45.** Article 57 is amended to read as follows:

"Article 57. The Ministry of Agriculture and the municipal land commissions shall be the land-ownership organizations."

**Section 46.** Article 58 is deleted.

**Section 47.** Article 59 is amended to read as follows:

"Article 59. The Ministry of Agriculture shall:

"1. Coordinate activities for the implementation of the ZSPZZ and the regulation on its application;

"2. Guide the work of the municipal land commissions;

"3. Issue conclusions on the condemnation of farmland for major state and municipal needs;

"4. Provide methodical guidance to the liquidation councils of organizations as per Item 12 of the Transitional and Concluding Clauses of the ZSPZZ;

"5. Determine the size of the land subject to restoration that has been given to scientific, scientific-production, and training establishments, prisons, seed-producing and cattle-breeding farms, tree nurseries, and game farms;

"6. Determine the quality of the farmland by region that is the basis for computing the lowest possible amount of the leasing fee, leasing cost, and other factors for the farmland allocated from the state and municipal land funds;

"7. Determine the land from the State Land Fund that will be granted for land distribution;

"8. Grant the right to use land from the State Land Fund as per Article 26 of the ZSPZZ;

"9. Define the procedure and conditions for subtracting from land subject to restoration as per Sections 4a and 4b of the Transitional and Concluding Clauses of the ZSPZZ;

"10. Issue instructions concerning methods within its jurisdiction;

"11. Approve the list of individuals authorized to implement land-distribution activities;

"12. Implement any other functions it may be assigned."

**Section 48.** Article 60 is amended to read as follows:

"Article 60. (1) Land commissions shall be set up under the municipal people's councils.

"(2) In settlements within the municipality, land commissions with the same authority may be set up at the suggestion of the municipal council.

"(3) Members of land commissions are appointed and dismissed by the minister of agriculture.

"(4) The land commissions shall consist of a chairman, a secretary, and an odd number of members. The chairman and the secretary of the commission and the members assigned by the Ministry of Agriculture must be full-time employees. The remaining members of the commission shall be paid in accordance with existing laws.

"(5) The commissions must include the following: an attorney, an agronomist, an engineer-geologist or a land-structure engineer, and representatives of the liquidation council and the private farmers."

**Section 49.** Paragraph 2 of Article 61 is amended to read as follows:

"(2) The liquidation councils and juridical persons as per Article 15, Paragraph 3 of the ZSPZZ must provide the state bodies, municipal councils, and municipal land commissions the required information and copies of documentation at their disposal within 10 days of the filing of a request from them. Such information must be provided free of charge except for the actual cost of making copies of documents."

**Section 50.** Chapter 5 "Financing" becomes Chapter 6.

**Section 51.** Article 63 is amended to read as follows:

"Article 63. The land-ownership organizations shall be supported by the budget."

**Section 52.** Article 64 is amended to read as follows:

1. Paragraph 1 is amended as follows:

"(1) An annual budget account shall be approved for the Ministry of Agriculture, based on size, cost of upkeep, and so on, for payments to nonpermanent members and the cost of its activities, as stipulated in the law.

"(2) In Paragraph 2, second sentence, the word 'people's' is deleted; the words 'by proposal of the Ministry of Agriculture' are added at the end."

**Section 53.** Article 65 is amended to read as follows:

"Article 65. (1) All income from the application of the law shall be paid to the central state budget, with the exception of the income as per Sections 4a and 4b of the Transitional and Concluding Clauses of the ZSPZZ.

"(2) The funds as per Section 4a and Section 4b of the Transitional and Concluding Clauses of the ZSPZZ shall be collected and expended out of a special nonbudget account of the municipal council and used exclusively for settling accounts with former owners and users."

**Section 54.** Article 66 is amended to read as follows:

"Article 66. After the conclusion of activities on the application of Sections 4a and 4b of the Transitional and Concluding Clauses of the ZSPZZ, the balances of deposited funds shall become part of the central state budget."

**Section 55.** The heading "Additional Stipulation" shall become "Additional Stipulations."

**Section 56.** The following changes shall be made in Section 1 of the Additional Stipulations:

1. Subsection 2 shall be amended as follows:

"2. In flat areas: up to eight decares or a total of up to 10 decares per household, if the household consists of more than one member;"

2. Section 3 is deleted.

**Section 57.** New Sections 1a, 1b, and 1c are added to the Additional Stipulations:

"1a. In the sense of this regulation, a 'household' includes the spouses, unmarried children, and the parents of one or both spouses living with them.

"1b. (1) The distance between the farmlands and cities with a population in excess of 300,000 is measured on the basis of a straight line, the starting point of which is the center of the settlement and the end is the outside boundary of the zone allocated for farm use.

"(2) The distance from farmland to the coastal sea line is the shortest distance measured in a straight line from the coastal line of the Black Sea extended by the width of the existing shore lines, to the external limit of the zone for farm use.

"1c. In the cases stipulated in Article 18h, Paragraph 1, it is considered that the construction was initiated when, prior to the enactment of the Law on Amending and Supplementing the ZSPZZ (DURZHAVEN VESTNIK No. 28, 1992), legal construction and installation work on the specific lot (terrain) had taken place prior to the development of the zero cycle."

**Section 58.** Sections 2 and 3 of the Provisional and Concluding Stipulations are deleted.

**Section 59.** Section 5 of the Provisional and Concluding Stipulations is amended to read as follows:

"5. (1) Citizens who have been granted the right to utilization based on the legal acts, as stipulated in Section 4 of the Transitional and Concluding Clauses of the ZSPZZ, must submit a petition to the technical service of the municipalities where the property is located within three months of the enactment of the Law on Amending and Supplementing the ZSPZZ (DURZHAVEN VESTNIK No. 28, 1992), indicating the following:

"1. Property location, area, and neighbors;

"2. Description of the property as per Section 4b, Paragraph 1 of the Transitional and Concluding Clauses of the ZSPZZ.

"3. Developed area with the number of stories of the building erected on the property.

"(2) The petition must be accompanied by a document certifying the right to utilization and a statement indicating that said property is the only residence or the only farmland of the family, which includes the spouses and their minor children. Individuals providing false data are liable as per Article 313 of the Penal Code.

"(3) Within three months of submission of the petition, the municipality determines:

"1. The evaluation of the property on the basis of the stipulations of Section 4a, Paragraph 1 of the Transitional and Concluding Clauses of the ZSPZZ;

"2. The amount of the fee in the cases stipulated in Section 4a, Paragraph 2 of the Transitional and Concluding Clauses of the ZSPZZ;

"3. Type of property: vineyard, vegetable garden, or field planted with oleaginous crops;

"4. The distance to cities with populations in excess of 300,000 or the coastal line.

"(4) On the basis of the evaluation protocol, until 31 December 1992, citizens who have been granted the right to use land in accordance with the legal acts stipulated in Section 4 of the Transitional and Concluding Clauses of the ZSPZZ shall pay the price of the land on the basis of a deposit to the nonbudget account of the respective municipality.

"(5) Such individuals shall be issued a notarized legal document for the acquired ownership right.

"(6) The granted right of utilization shall be terminated as of the date stipulated in Section 4a, Paragraph 1 and Section 4b, Paragraph 2 of the Transitional and Concluding Clauses of the ZSPZZ.

"(7) If the user of the land fails to pay the land price within the stipulated deadline, the landowner shall submit a petition within one month to the technical service of the municipality for the appraisal of the building and improvements to the property. The petition shall include the resolution of the municipal land commission on the restoration of the right of ownership.

"(8) On the basis of the assessment protocol, by 30 June 1993, the landowner shall deposit the amount owed to the nonbudget account of the respective municipality.

"(9) If the cost of the land and the building is not met, the user who has erected the building shall acquire the right of ownership of the building only, separate from the location, after paying the fee in the cases stipulated in Section 4a, Paragraph 2 of the Transitional and Concluding Clauses of the ZSPZZ."

**Section 60.** New Sections 5a and 5b are created in the Provisional and Concluding Stipulations, to read as follows:

"5a. (1) The transferred sums from the deposit account of the municipality are paid to the landowner after submission of the resolution of the municipal land commission. In the case of an unresolved dispute over material rights, the funds are paid after a court ruling.

"(2) If property ownership is restored to the heirs of a deceased owner, the funds from the deposit account are paid in one lump sum to all heirs.

"(3) In the cases stipulated in 4a, Paragraph 5 of the Transitional and Concluding Clauses of the ZSPZZ, the user pays the price of the land within six months following the determination of the price or of depositing to the state or municipal land fund personally owned



land equal in quantity and quality. A contract on the acquired right of ownership is concluded between the municipality and the private citizen.

"(4) If the land to which the user has the right of ownership and his own land are located in different municipalities, the equivalent amount of owned land, in terms of quantity and quality, is transferred to the State Land Fund.

"5b. The declaration as per 4e of the Transitional and Concluding Clauses of the ZSPZZ is filed with the municipal council at the location of the property to which the citizen relinquishes the right of ownership as per 4a and 4b of the Transitional and Concluding Clauses of the ZSPZZ."

**Section 61.** Section 6 of the Provisional and Concluding Stipulations is amended to read as follows:

"6. (1) Physical persons who have not earned any income from the plant and livestock goods produced over a period of five years after assuming possession are not subject to taxation on their general income.

"(2) Young families that, at the time of assuming possession, are under age 35 for the husband and age 30 for the wife and have not been married for more than 10 years are exempt from the general income tax on income from the production of vegetable and animal husbandry goods for a period of eight years."

**Section 62.** A new Paragraph 6a is created to read as follows:

"6a. (1) The liquidation council of the organization that is terminated as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ:

"1. Registers the termination and the announcement of its liquidation in the corresponding records of the okrug court. On the day of publication in DURZHAVEN VESTNIK of the resolution registering the name of the organization, the words 'in liquidation' are added to its name;

"2. Organizes, controls, and manages the activities of the organization until its elimination, with the rights and obligations of an administrative council; the chairman of the liquidation council has the rights and obligations of the manager of the organization;

"3. Determines the shares as per Article 27, Paragraph 1 of the ZSPZZ;

"4. Completes the current projects of the organization;

"5. Collects amounts owed and meets its obligations;

"6. May terminate contracts concluded by the organization prior to its declaration in liquidation by paying compensatory damages;

"7. Invites the creditors to file their claims. Such invitations are issued in writing to known creditors and are made public;

"8. Terminates legal labor relations with the blue-collar and white-collar workers under the conditions of total liquidation, but no later than the time the organization is ended;

"9. Carries out the activities stipulated in Chapter 17 of the Commercial Code, 'Liquidation,' if nothing else is stipulated in this regulation;

"10. Reports to the oblast administrator and records his order of striking the organization off the pertinent record book of the okrug court.

"(2) The moment the liquidation councils are appointed, the oblast administrators terminate, in accordance with the stipulations of Article 328, Paragraph 1, Item 1 of the Labor Code, their legal labor relations with managers and their deputies of organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ."

**Section 63.** Throughout the text, the words "National Land Council," "the municipal people's council," "municipal people's council," "municipal people's councils," "minister of agriculture and food industry," and "the minister of agriculture and food industry" are replaced, respectively, with the words "minister of agriculture," "the municipal council," "municipal council," "municipal councils," "minister of agriculture," and "the minister of agriculture."

#### Provisional and Concluding Stipulations

**Section 64.** (1) Petitions filed prior to the enactment of the present resolution may be amended and supplemented in accordance with the Law on Amendments and Supplements of the ZSPZZ (DURZHAVEN VESTNIK No. 28, 1992) by the petitioners, with a supplementary request filed before the deadline as per Article 11 of the ZSPZZ.

(2) If the petitioner wishes to exercise his rights as per the Law on Amending and Supplementing the ZSPZZ (DURZHAVEN VESTNIK No. 28, 1992), he must file a new petition with another municipal land commission and must, before the deadline stipulated in Article 11 of the ZSPZZ:

1. File a new petition with the competent municipal land commission;

2. Withdraw his specific petition submitted to the first municipal land commission.

**Section 65.** Enacted resolutions as per the deleted Article 17, Paragraph 1 of the Regulation on the Application of the ZSPZZ (PPZSPZZ) prior to the enactment of the present resolution shall be considered as a resolution as per Article 18g, Paragraph 2 if the petitioner has not

regained the right of ownership of property within the old real boundaries that still exist or are restorable.

**Section 66.** The Land Fund as per Article 67 of the ZSPZZ is transferred to the Ministry of Agriculture.

**Section 67.** The rights of users acquired on the basis of the deleted Section 2 of the Provisional and Concluding Stipulations of the PPZSPZZ are settled in accordance with the present procedure.

**Section 68.** Terminated organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ are not subject to paying a tax on profit from the production of vegetable and animal-husbandry goods until the deletion of the organizations.

**Section 69.** Assessments of TKZS property and of organizations founded on the basis of a TKZS made prior to the enactment of the present resolution are adopted by

resolution of the liquidation council as per Article 49, Paragraph 5 of the PPZSPZZ.

**Section 70.** The cost of the liquidation councils until the deletion of the organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ is at the expense of the terminated organizations.

**Section 71.** On the basis of Article 161 of the Labor Code, individuals included in the liquidation councils and organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ must be granted unpaid official leave after presenting orders from the oblast administrator.

**Section 72.** The liquidation councils assume the rights of the terminated organizations as per Section 12 of the Transitional and Concluding Clauses of the ZSPZZ in dealing with pending matters.



## Law on Commodity Exchanges

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in Czech 20 May 92 pp 21

[Law approved by the Federal Assembly of the Czech and Slovak Federal Republic effective 23 April 1992: "Law on Commodity Exchanges"]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic approved the following law:

### SECTION I: Basic Provisions Commodity Exchange

**Article 1.1.** A commodity exchange is a legal entity established under this law (hereafter only "exchange") to organize trading on the exchange with goods that are not the object of trading on an exchange under special law<sup>1</sup> (hereafter only "commodities").

1.2. An exchange answers for its liabilities with all its assets. Members of the exchange, who are obligated to make a deposit or pay a membership fee, are liable for the commitment of the exchange only to the extent of their unredeemed deposit or the amount of their unreimbursed membership fee. The extent of further liabilities of the exchange members can be determined by the statute of the exchange.

1.3. Any profit from the activity of the exchange cannot be distributed during its existence among the promoters or other members of the exchange and can be used only to ensure further development of the exchange.

1.4. Entities other than exchanges established under this law may use in their name the term "exchange" only if the special law so stipulates.<sup>1</sup>

### Exchange Business

**Article 2.1.** Exchange business is the buying and selling of commodities by persons authorized to trade on the exchange in premises and hours designated for exchange sessions, which may also be outside of the exchange, under conditions stipulated by this law and the statute, as long as the price of the transaction is quoted by the appropriate body of the exchange.

2.2. Exchange business is also auxiliary business concluded on the exchange which is related to the commodities traded on the exchange, especially insurance contracts, warehousing contracts, transportation contracts, and forwarding contracts.

### SECTION II Establishing an Exchange

**Article 3.1.** An exchange can be established only by persons who are registered in the companies' register<sup>2</sup> by concluding a promoter's contract.

3.2. A promoter's contract must be concluded by at least three promoters. Signatures of the promoters must be notarized.

3.3. A promoter's contract contains:

- a) Designation of promoters by giving the business name, for legal entities the place of business, for persons their place of residents, and the object of the enterprise;
- b) Name, which must contain the term "exchange";
- c) Place of business of the exchange;
- d) Object and type of the exchange business;
- e) Kind and amount of the promoters' deposits from which the operating expenses of the exchange will be paid;
- f) Manner of ensuring financial means for the first year of operations on the exchange;
- g) Statement by the promoters that they agreed on the draft statute;
- h) Statement by the promoters that they agreed to establish an arbitration board connected to the exchange (hereafter "exchange arbitration board") and its rules;
- i) Names and residences of the initial members of the exchange board, whose election is otherwise the province of the general meeting of the members of the exchange (Article 10, Paragraph 3).

3.4. The draft statute is an appendix to the promoter's contract.

### Statute

**Article 4.1.** The statute contains:

- a) Name and place of business of the exchange;
- b) Definition of the object and type of the exchange business;
- c) Detailed conditions for gaining a seat on the exchange and for visiting exchange sessions;
- d) Specific rights and obligations of the members of the exchange;
- e) Detailed designation of persons authorized to trade on the exchange, conditions for exclusion of these persons from trading on the exchange, including concretization of the rights and obligations of these persons;
- f) Details of procedure for naming and recalling persons authorized to negotiate trade on the exchange (hereafter "brokers"), manner of their remuneration, and conditions under which they are authorized to trade on the exchange in their own name;
- g) Determination of the manner in which the members of the exchange share in the cost of operating the exchange, and possibly the extent of their liability for the obligations of the exchange above the extent determined by law;

h) Detailed determination of the responsibilities of the bodies of the exchange and the number of the members of the exchange board;

i) Manner, in which are determined the rules for concluding contracts which are the exchange business, their mediation and settlement (hereafter "exchange regulations");

j) Manner of determining and publishing quotations;

k) Rules for managing the assets of the exchange;

l) Detailed rules for verifying the decisions of the exchange board by the general meeting, for approving the decision to dissolve the exchange, and procedure for its liquidation, including the manner of distributing the liquidation balance.

4.2. The exchange board will publish the statute and the rules of the exchange arbitration board in the Business Bulletin.<sup>3</sup>

#### State License

**Article 5.1.** An exchange can become established only on the basis of and within the limits of a state license.

5.2. Before requesting the registration of the exchange in the companies' register, the promoters will apply for a license to operate the exchange.

5.3. The promoters will state in the application:

- a) Names and the place of business of the exchange;
- b) Object and line of business that will be done on the exchange;
- c) Their trade name, line of business, for legal entities the place of business, for persons their place of residence.

5.4. The application for license will be signed by all promoters, who will enclose the following documents:

- a) Promoter's contract;
- b) Statute;
- c) Rules of the exchange arbitration board, if it is to be established.

5.5. A permit is also necessary for amending the statute and the rule of the exchange arbitration board. In such cases the exchange board will apply for the permit and attach to the application the resolution of the general meeting on the amendment. The amendment of the statute and the rules of the exchange arbitration board goes into effect on the day when the permit goes into effect.

**Article 6.1.** The license to operate the exchange is issued by the appropriate state agency of the Czech Republic or the Slovak Republic (hereafter only "appropriate state agency").

6.2. The appropriate state agency will not issue a license if:

- a) The statute or the rules of the exchange arbitration board are in conflict with legal regulations;
- b) The proposed line of exchange business could threaten the market of basic raw materials which are proposed for trading on the exchange.

**Article 7.1.** The appropriate state agency will act on the application for license within 60 days after it was received.

7.2. In the decision with which the license is granted the appropriate state agency will state the name and place of business of the exchange, object and line of business which can be done on the exchange. A part of the license is also the approval of the statute, and, if it is being established, also of the rules of the exchange arbitration board.

7.3. Substantiation of the refusal to grant the license must contain the specific reason why the license was not granted.

7.4. The appropriate state agency will give the applicant a reasonable time for removing the defects in the application, the statute, or the rules of the exchange arbitration board or to make the changes recommended by the appropriate state agency.

#### Registration in the Companies' Register

**Article 8.1.** The exchange is established on the day it is entered in the companies' register. Request for the registration in the companies' register is signed by all the promoters of the exchange. The signatures of the promoters must be notarized.

8.2. Entered into the companies' register are:

- a) Name and place of business of the exchange;
- b) Identification number;
- c) Trade name and place of business or the residences of the promoters, including the amount of their deposits and the extent of their liability for the exchange if their liability is higher under the statute than this law stipulates;
- d) Name and residence of the person or persons who are members of the statutory body of the exchange, the manner in which they perform their duties and sign on behalf of the exchange;
- e) Object and line of the exchange business.

8.3. Enclosed with the request for registration are:

- a) License;
- b) Promoter's contract;
- c) Statute;

d) Rules of the exchange arbitration board, if it is established.

### SECTION III

#### Bodies and Internal Affairs of the Exchange

**Article 9.1.** The bodies of the exchange are:

- a) General meeting;
- b) Board of directors

9.2. The statute can establish advisory bodies of the exchange.

#### General Meeting

**Article 10.1.** The highest body of the exchange is the general meeting which is composed of all members of the exchange (Paragraph 17).

10.2. The general meeting can make resolutions if an absolute majority of the members of the exchange is present. To approve a resolution, the approval of an absolute majority of the members authorized to vote who are present is needed, unless this law or the statute require a qualified majority. Each member has one vote. But a member who membership dues is in arrears cannot vote.

10.3. The exclusive function of the general meeting is:

- a) Elect and recall the number of members of the exchange board of directors determined by the statute;
- b) Pass resolutions on amendments of the statute and the rules of the exchange arbitration board;
- c) Pass resolutions on regulations of the exchange;
- d) Decide the amount and time terms for paying membership dues and enrollment fees;
- e) Establish the amount of exchange fees;
- f) Dissolve the exchange and appoint the liquidator;
- g) Review, at the request of the persons concerned, the resolutions of the board of directors and the chairman of the board under conditions set down in the statute, with the exception of resolutions under Article 22, Paragraph 2;
- h) Pass resolutions on other matters determined by the statute.

10.4. To pass a resolution on the amendment of the statute and the rules of the exchange arbitration board, three-fifths of the members of the exchange are needed.

10.5. Rules for calling and conducting the general meeting are determined by the statute.

#### The Board of Directors of the Exchange

**Article 11.1.** The board of directors is the statutory and directing body of the exchange. Unless the statute stipulates otherwise, the chairman of the board acts on behalf of the exchange. Members of the board who enter into obligations on behalf of the exchange, and the manner in which they do so, are entered in the companies' register.

11.2. The exchange board of directors must have at least three members. Two-thirds of the board are elected and recalled by the general meeting and one-third is named and recalled by the appropriate state agency. An employee of the central government agency of the CSFR, the Czech Republic, and the Slovak Republic cannot be elected or named to the board of the exchange.

11.3. Members of the exchange board of directors are elected or named for the time determined by the statute, but for the period of four years at the most. Unless the statute stipulates otherwise, the members may be elected and named repeatedly.

11.4. A member of the exchange board of directors can only be a person more than 21 years of age, whose personal qualities and professional qualifications ensure a proper conduct of his function.

11.5. A member of the exchange board of directors may resign his position, but is obliged to notify the agency that elected or named him. That agency must act on the resignation within three months after it was notified. The function of the member of the exchange board of directors ends on the day when the agency that elected or named him acts, or should have acted, on his resignation.

11.6. Rules for elected members of the exchange board of directors, or any other requirements and conditions of membership in the board, are established by the statute.

**Article 12.1.** The board of directors makes decisions about all the affairs of the exchange, if they are not entrusted to the general meeting by this law or by the statute. Each member of the board has one vote.

12.2. The board of directors:

- a) Makes decisions on accepting and expelling members of the exchange;
- b) Proposes to the general meeting the amount and time terms for paying membership contributions and enrollment fees, amount of exchange fees, amendments of the statute and rules of the exchange arbitration board, dissolution of the exchange and the person of the liquidator;
- c) Makes decisions on the use of the assets of the exchange;
- d) In accord with the statute, designates the place and time for holding exchange sessions;

e) Determines, under what conditions tickets to the exchange sessions can be issued;

f) Takes measures to maintain order at the exchange sessions and honesty in the exchange business (Article 25);

g) Proposes regulations of the exchange and determine the manner of reporting exchange business;

h) Names and recalls, with the approval of the exchange commissioner, (Article 33) exchange brokers and supervises them;

i) Forbids a member of the exchange to attend exchange sessions (Article 20) for reasons and under conditions determined by the statute;

j) Permits activity of private brokers (Article 23, Paragraph 3) on the exchange;

k) Stops transactions on the exchange under conditions determined by the statute;

l) Determines and publishes commodity quotations;

m) Elects and recalls members of exchange committees, chairman of the exchange board, and the secretary general of the exchange, members of the board of the exchange arbitration board, and names the secretary of the exchange arbitration board and his deputy;

n) Draws up detailed rules for individual areas of its function designated in the statute;

o) Act on other matters entrusted to it by the statute.

#### Meetings of the Exchange Board of Directors

**Article 13.1.** A meeting of the board of directors has a quorum if an absolute majority of the members of the board elected by the general meeting and an absolute majority of members named by the appropriate state agency are present. To pass a resolution, the approval of an absolute majority of members present is needed.

13.2. The presence of two-thirds of members elected by the general meeting and named by the appropriate state agency is needed for the election and recall of the chairman of the exchange board, the secretary general of the exchange, for making decisions on protests against the decisions of exchange committees or chairman of the exchange board that concern the right to trade on the exchange or conduct exchange business, as well as other matters if the statute so stipulates; to pass a resolution the approval of two-thirds of the members present is needed.

13.3. In case of a tie, the vote of the presiding officer is decisive.

13.4. Rules for calling and conduct of the meeting of the exchange board of directors are established by the statute.

#### Committees of the Exchange

**Article 14.1.** The board of directors can set up committees for the purpose of taking action on matters named in Article 12, Paragraph 2, b), and d) through l).

14.2. Committees can be standing or ad hoc. The rules for the conduct of exchange committees is determined by the statute.

14.3. Exchange committees are composed of members of the exchange board and specialists in a given field. The chairman and the members of the committees are named and recalled by the exchange board of directors.

#### Chairman of the Board

**Article 15.1.** The chairman of the board of directors:

a) Directs the activity of the board and calls its meetings;

b) Signs resolutions passed at the meetings of the board and is responsible for their implementation;

c) Makes decisions on all matters that are not reserved by this law or the statute for the general meeting, the meeting of the board of directors, or to a committee;

d) Sees to it that the regulations of the exchange are followed;

e) Is authorized to approve resolutions under Article 12, Paragraph 2 k) if there is danger in delay.

15.2. Only a member of the board can be elected its chairman.

#### Secretary General of the Exchange

**Article 16.1.** The secretary general of the exchange is elected at the meeting of the board on the motion of the chairman of the board. The candidate for the position of secretary general is selected in a competition.

16.2. The secretary general of the exchange is an employee of the exchange, and for the duration of his function he cannot engage in entrepreneurial activity, be in an employee or other similar relationship or be a member of statutory or supervisory agencies of legal entities engaged in entrepreneurial activity.

16.3. The secretary general of the exchange:

a) Directs the activities of the management as well as of all other employees of the exchange;

b) Prepares the agenda for the meetings of the board of directors;

c) Publishes the conclusions and notifications of the exchange board;

d) Sees to it that order is maintained at exchange sessions, and is authorized to eject persons who are disturbing the peace and do not heed his instructions;

e) Fulfills other tasks which are entrusted to him by the statute, the meeting of the board of directors, or the chairman of the board.

16.4. The secretary general of the exchange has the right to attend the general meetings, the meetings of the board of directors and the committees in an advisory capacity.

#### **SECTION IV Membership**

**Article 17.1.** Members of the exchange are:

- a) Promoters of the exchange (Article 3);
- b) Brokers of the exchange (Article 29);
- c) Members of the exchange board named by the appropriate state agency (Article 11, Paragraph 2) and the secretary general or the exchange (Article 16);
- d) Persons accepted by the exchange board of directors as members of the exchange.

17.2. If the statute does not state otherwise, accepted as a member of the exchange under Paragraph 1 d) can only be a person who is authorized to manufacture or process goods that are traded on the exchange or to market them and provide services related to the marketing of such goods, if he pays the required enrollment fee.

#### **Members' Basic Rights And Obligations**

**Article 18.1.** Members of the exchange have the right under conditions defined in this law and the statute to attend the general meetings and vote, the right to elect and be elected to the bodies of the exchange, and attend exchange sessions.

18.2. The statute can impose on members of the exchange, unless they became members under Article 17, Paragraph 1 c), the duty to pay enrollment fee and yearly membership dues in the amount and time terms established by the general meeting.

#### **Cessation of Membership**

**Article 19.1.** Reasons for cessation of membership:

- a) Exclusion from trading on the exchange under Article 22, Paragraph 1 a);
- b) Loss of function on which the membership of a person was based;
- c) Death;
- d) Dissolution of the legal entity without a legal successor;
- e) Expulsion of the member of the exchange;
- f) Notice;
- g) Other reasons stipulated in the statute.

19.2. The board of directors can expel a member of the exchange if he is seriously derelict in meeting his obligations, especially if his membership dues are in arrears. The decision to expel must be approved within six months from the day learned about the failure to meet obligations, but at the latest within one year from the day when it occurred. The decision to expel must be served in a manner established by the statute. The member of the exchange may ask the general meeting, within one month of being notified of the expulsion, to review the decision to expel. The expelled member is not entitled to have his membership dues for the year in which he was expelled returned.

19.3. The member of the exchange named in Article 17, Paragraph 1 a) and d) can resign his membership in writing; his obligation to pay dues for the entire year is not affected by it. If the statute does not stipulate a longer term, the length of notice is six months and starts on the first day of the month following the delivery of the notice. More detailed rules for resigning can be established by the statute.

#### **SECTION V Trading on the Exchange**

##### **Exchange Sessions**

**Article 20.1.** An exchange session is the assembly of authorized persons in the premises and hours designated by the board of directors for trading and negotiating trade on the exchange.

20.2. Persons authorized to attend exchange sessions are those persons who were issued tickets in accord with the statute to the exchange sessions, members of the board, brokers, the exchange commissioner, and employees of the exchange designated by the board of directors.

20.3. Persons who attend exchange sessions are obliged to observe the statute.

20.4. The statute must be available in a publicly accessible place and the rules of conduct for the visitors to the exchange must be displayed in a visible place in the hall where the exchange sessions are held.

##### **Persons Authorized To Trade on the Exchange**

**Article 21.1.** Persons authorized to trade on the exchange, provided they observe the statute and the regulations of the exchange, are:

- a) Persons who are members of the exchange under Article 17, Paragraph 1 a) and d);
- b) Other persons, if they are authorized to manufacture or process goods that are traded on the exchange or to market such goods and provided services related to such goods, and who obtain a ticket to the exchange sessions;
- c) Legal entities established by law for the purpose of regulating the commodities market or creating and protecting material reserves.



21.2. Legal entity, authorized to trade on the exchange, designates with the prior approval of the exchange board of directors one or more persons as its agents, who will engage in trading on the exchange in its name. The power of attorney must be in writing and the signature of the principal must be notarized; the same applies for giving power of attorney to an agent of a person.

21.3. A broker may, within the scope of his activity, engage in trading in his own name and for his own account only in instances when allowed by the statute.

21.4. Members of exchange board of directors named by the appropriate state agency are not entitled to trade or negotiate trade on the exchange, unless they are members of the exchange under Article 17, Paragraph 1 d).

#### **Exclusion From Trading on the Exchange**

**Article 22.1.** Excluded from trading on the exchange are:

a) Persons who ceased to meet requirements named in Article 21;

b) Persons whose assets are in bankruptcy or where settlement was permitted, or the petition for bankruptcy was rejected because of insufficient assets, for two years after the conclusion of these proceedings;<sup>4</sup>

c) Persons whose permit to attend exchange sessions was taken away;

d) Persons whose authorization to trade on the exchange was removed or temporarily removed by the exchange commissioner;

e) Persons named in Article 25, Paragraph 3.

22.2. The decision on expulsion from trading on the exchange under Paragraph 1 a) is made by the exchange board of directors, whose decision is served in the manner established by the statute. The person involved may, within seven days of being notified of the expulsion, request the court to declare it void if it is in conflict with legal rules.

22.3. The person involved cannot engage in trading on the exchange from the time the decision of the exchange board of directors was made until the ruling of the court goes into force. His right to be compensated for damages is not affected.

#### **Trading and Negotiating Trade on the Exchange**

**Article 23.1.** Persons authorized to trade on the exchange under Article 21, Paragraph 1 d) may make individual business deals on the exchange only through brokers. Persons authorized to trade on the exchange under Article 21, Paragraph 1 a) and c) may trade directly in their own name and for their own account without using a broker.

23.2. Only brokers employed by the exchange (Article 29) or private brokers are authorized to negotiate business deals on the exchange.

23.3. A private broker is a person who engages in negotiating trade on the basis of a trade license.<sup>5</sup> Conditions, under which private brokers can trade on the exchange, are determined by the statute. Provisions of Article 30, Article 31 Paragraphs 1 and 2, and Article 32 apply similarly to private brokers.

23.4. Trading or negotiating trade on the exchange cannot result in direct authorization or a liability for the exchange.

#### **Obligations of Persons Authorized to Trade on the Exchange**

**Article 24.1.** Persons authorized to trade on the exchange are obliged to:

a) Observe regulations which pertain to trading on the exchange;

b) Settle accounts of transactions made on the exchange in the manner established by the statute;

c) Report the price of direct trade according to Article 27, Paragraph 3.

24.2. A more detailed definition of these obligations can be determined by the statute.

#### **Honesty in Trading on the Exchange**

**Article 25.1.** When trading on the exchange, all participants must have access at the same time to the same information on facts important for the development of price quotations of the commodities which are being traded on the exchange.

25.2. It is forbidden to arrange transactions on the exchange aimed at harming third persons.

25.3. Persons, who as a result of their job or position on the exchange have access sooner than other participants in the trading on the exchange to information on facts that could influence the development of price quotations of commodities which are traded on the exchange, are not permitted to trade in those commodities or use such information to benefit other persons until such information becomes public knowledge.

25.4. Members of the exchange and its board of directors are obliged to maintain secrecy about facts which they learned as a result of their position and which are important for the development of price quotations of the commodities which are traded on the exchange.

#### **Object and Line of Exchange Business**

**Article 26.1.** Trading on the exchange is possible only in those commodities which are entered in the companies' register (Article 8, Paragraph 2 e)), and which the appropriate state agency approved for trading on the exchange (Article 2).

26.2. The possibility to negotiate transactions where there is a considerable elapsed time between the conclusion of the contract and its settlement (hereafter "futures contract"), provided they are entered in the companies' register as a type of admissible trading on the exchange, is determined by the board of directors of the exchange.

26.3. After concluding a futures contract, the buyer must make a deposit in the manner and amount determined by the statute.

26.4. Trading in futures can be made only through brokers on the exchange, with the exception of persons named in Article 21, Paragraph 1 c).

#### **Recording and Quoting Prices**

**Article 27.1.** Prices of transactions on the exchange must be recorded on the exchange in the manner determined by this law and the statute.

27.2. Prices of transactions negotiated by brokers are recorded in the trade book (Article 30, Paragraph 1 b).

27.3. Persons, who are authorized to negotiate trade directly without the use of brokers, must report the conclusion of the transaction during the course of the exchange session to the exchange officials designed by statute, and if the transaction was arranged outside the exchange session, during the next exchange session. Detailed procedure for making the report will be determined by the statute.

27.4. If the exchange is using a computerized data processing system, the transaction must be recorded in that system. The exchange board of directors must implement such measures that would prevent access to unauthorized persons, and ensure the protection and secrecy of the data contained in it.

27.5. Price quotations of the commodities which are traded on the exchange are determined by the board of directors of on the basis of data, provided by brokers and members of the exchange who are authorized to engage in direct trading on the exchange, about prices for which trading was done in the period established by the statute (price quotation).

27.6. If the exchange uses a computer system, the price quotation will be calculated by this system.

27.7. Price quotations are published by the exchange board of directors in the exchange list in the Commercial Bulletin.<sup>3</sup> Other methods of publishing the exchange list will be determined by the statute.

#### **Exchange Arbitration Board and Settling Disputes Arising From Trading on the Exchange**

**Article 28.1.** An exchange can establish an arbitration board as an independent permanent body for settling disputes, named in Paragraph 3, by independent arbitrators.

28.2. The organizational setup, composition of the exchange arbitration board, and rules for proceedings before it, is determined by the statute and the rules of the exchange arbitration board.

28.3. Disputes arising from exchange business (Article 2), which otherwise would be within the authority of the courts to settle,<sup>6</sup> are settled, if the parties agree to it, by arbitration before the exchange arbitration board. This applies also to disputes<sup>6</sup> arising from business done outside the of the exchange which concern the commodities that are traded on the exchange.

28.4. In settling the disputes named in Paragraph 3, the courts as well as the exchange arbitration board take into consideration within the merits of the case the contents of the contract, regulations of the exchange, business practices, and the statute.

28.5. The provisions of legal rules that govern the arbitration proceedings, unless this law determines something else, apply to the agreement of the parties that their disputes under Paragraph 3 are to be settled by the exchange arbitration board (hereafter "submission"), for the arbitrators and the proceedings before the exchange arbitration board and its awards, as well as to settling other issues related to the functioning of the exchange arbitration board and the arbitrators; but they cannot take away from the parties the right to demand that the award be set aside and the ordered implementation of the award stopped under the provisions of legal norms governing arbitration proceedings.

28.6. If the parties agree on the competence of the exchange arbitration board, they submit to the rules of the exchange arbitration board and resolutions of the statute that determines the status and function of the exchange arbitration board.

28.7. The awards of the exchange arbitration board are final, and upon being served have the force of a court ruling and are enforceable by law. Enforceable by law are also other decisions of the exchange arbitration board that place certain obligations on the parties, as is conciliation before the arbitrator or arbitrators and signed by them.

28.8. The provisions of the preceding Paragraphs do not affect the right of the parties to arrange, under legal rules on arbitration proceedings, to arrange a settlement of their disputes in arbitration proceedings before another arbitration board.

#### **SECTION VI**

**Article 29.1.** A broker employed at the exchange negotiates transactions on the exchange. He is appointed and recalled by the board of directors of the exchange with prior approval of the exchange commissioner. The number of brokers at the exchange is determined by the board of directors of the exchange.

29.2. The selection of brokers for the exchange is made on the basis of a competition announced by the exchange



board of directors. A broker can only be a person who resides on the territory of the CSFR, is more than 21 years of age, and competent to handle legal matters, if he proves his expert qualifications in a test taken before a commission appointed by the appropriate state agency.

29.3. An exchange broker is not permitted to engage in other entrepreneurial activity, be in an employee or other similar relationship or a member of statutory and supervisory bodies of legal entities engaged in entrepreneurial activity.

29.4. A person ceases to be an exchange broker:

- a) When he gives notification in writing that he is giving up his work as an exchange broker;
- b) When he is recalled by the board of directors of the exchange (Article 32);
- c) If he was prohibited from working as an exchange broker by a court injunction.

29.5. Notification under Paragraph 4 a) must be delivered to the exchange board of directors at least three months before the day work is ended. The activity of an exchange broker can end only on the last day of a month.

#### Function of Exchange Brokers

**Article 30.1.** Exchange brokers have the following obligations:

- a) Negotiate transactions on the exchange in those commodities which were assigned to them by the board of directors of the exchange, on the basis of instructions given to them by the buyer and the seller;
- b) Keep a business ledger, in which they record in chronological order the transactions they negotiated during the exchange session;
- c) After concluding a transaction give the participating parties a contract note showing the agreed upon conditions of the transaction. The contract note can be substituted by a computer printout containing the necessary data on the transaction.

30.2. Exchange brokers must maintain secrecy on the instructions, orders, negotiations, contracts, and data on contracts of the parties, which concern the transactions on the exchange unless the parties release them from that obligation, and to keep trade secrets.<sup>7</sup>

30.3. An exchange broker must not negotiate a transaction if he has a substantiated suspicion that a participant in that transaction is not acting in accord with the law or the regulations of the exchange, or that he is bankrupt.

30.4. An exchange broker must negotiate transactions on the exchange in person. If he is absent, he must make certain that he is represented by another exchange broker.

30.5. The designation of the contracting parties, the time the transaction was arranged, the object and conditions of the transaction, or any other matters required by the statute are entered in the business ledger (Paragraph 1 b). The statute can stipulate detailed rules for keeping the ledger. The ledger may be substituted by computer printouts which have to be verified by the broker. Rejected transactions under Paragraph 3 are also entered in the ledger.

#### Compensation of Exchange Brokers

**Article 31.1.** An exchange broker is entitled to be compensated for negotiating a transaction as soon as the transaction is completed (hereafter "commission").

31.2. If the settlement of the transaction is contingent on contractual conditions, the broker is entitled to receive his commission only after they are met. If the fulfillment of the conditions is thwarted by the broker, he is not entitled to a commission.

31.3. The amount of the exchange broker's commission is determined by the board of the exchange with the approval of the appropriate state agency. Unless it was agreed upon or stipulated by the statute otherwise, the commission is paid by the parties to the transaction in equal portions.

#### Supervision of Exchange Brokers

**Article 32.1.** Supervision over the activities of exchange brokers is carried out by the exchange board of directors in a manner established by the statute, and the exchange commissioner.

32.2. If an exchange broker does not meet his obligations or if he is unable to perform his duties for a period of more than three months, the board of directors can recall him with the consent of or on the suggestion of the exchange commissioner.

32.3. If an exchange broker seriously and repeatedly fails to meet his obligations, the exchange board of directors can recall him on the suggestion of the exchange commissioner or even without it. In such a case this broker cannot be appointed exchange broker on any exchange for a period of three years.

32.4. The board of directors can, with the consent of the exchange commissioner, recall a broker who no longer meets the conditions for performing the duties of a broker established by this law (Article 29, Paragraph 2).

32.5. A broker can, within 1 month of the day when he was notified by the board of his recall, petition the court to declare the recall void if it is in conflict with the law or the statute.

## SECTION VII State Supervision and Penalties

### State Supervision

**Article 33.1.** State supervision of the exchange and the activities of the brokers is carried out by the appropriate state agency through the services of the exchange commissioner which also appoints and recalls him; this agency also appoints and recalls the deputy exchange commissioner, who represents the exchange commissioner during the latter's absence to the full extent of his powers and duties.

33.2. In performing his supervisory duties, the exchange commissioner observes the basic rules of supervisory activity established by special laws of the Czech National Council<sup>8</sup> and the Slovak National Council.<sup>9</sup>

**Article 34.1.** The exchange commissioner is authorized to verify, within the scope of his supervisory duties, the following:

a) Whether trading on the exchange is in accord with the law and the regulations of the exchange, and aspects named in Article 6, Paragraph 2 b);

b) Whether the brokers and officials of the exchange act in accord with the law and the statute.

34.2. If the exchange commissioner finds during the performance of his duties as state supervisor under Paragraph 1 that there are shortcomings, he is authorized to:

a) Bring the shortcomings to the attention of the officials and brokers of the exchange and request them to correct them within a certain time period;

b) Impose penalties;

c) Stop trading on the exchange if there is no other way to prevent great economic losses;

d) Stop the implementation of resolutions of the general meeting and the board of directors if they are in conflict with the law or the statute until such time when the courts rule on their validity, and petition the court within one month at the latest to declare the resolution that was stopped invalid; if no ruling is made within this time term, the rule is that the resolution stands.

34.3. The exchange commissioner gives his consent to the appointment and recall of exchange brokers and the amount of their commissions.

34.4. The exchange commissioner is obliged to maintain secrecy about facts related to exchange transactions, their participants and brokers, which he learned while performing his function unless they are facts that are in conflict with legal regulations, and also about facts which are the object of the trade secret of the exchange, members of the exchange, or persons who take part in trading on the exchange.

**Article 35.** If legal regulations or the statute are not observed in operating the exchange, or if the way the exchange is run is at variance with requirements named in Article 6, Paragraph 2 b), the appropriate state agency can, on the suggestion of the exchange commissioner, take away or restrict the license to operate the exchange.

### Penalties

**Article 36.1.** The exchange commissioner can forbid the person authorized to trade on the exchange, his agent, or broker to trade or negotiate transactions on the exchange for a period of up to one year, if that person:

a) Fails to meet his obligations named in Article 20, Paragraph 3, Article 21, Paragraphs 3 and 4, Article 23, Paragraph 1, Articles 24, 25, 26, Article 29, Paragraph 3, and Article 30;

b) Gives out false information which could influence the development of price quotations of the commodities traded on the exchange, or to harm participants in the trading.

36.2. The appropriate state agency can impose, on the suggestion of the exchange commissioner, a penalty for conduct named in Paragraph 1 up to the amount of 500,000 Czechoslovak korunas [Kcs].

36.3. Penalties under Paragraphs 1 and 2 can be imposed within 3 months of the day when the appropriate state agency or the exchange commissioner learned about the transgression, but at the latest six months after the transgression took place.

36.4. Penalty imposed under Paragraph 2 is payable within 30 days after the decision to impose it goes into effect.

36.5. The exchange commissioner can impose in class proceedings a penalty up to the amount of Kcs1,000 on persons who disturb the peace at exchange sessions. He similarly follows special rules.<sup>10</sup>

36.6. The penalties are a revenue of the state budget of the Czech Republic or the Slovak Republic, depending on the place of business of the exchange.

36.7. The function and authority of other supervisory bodies are not affected by this provision.

## SECTION VIII Dissolution of an Exchange

**Article 37.1.** An exchange is dissolved and enters into liquidation:

a) On the day stated in the resolution of the general meeting on the dissolution of the exchange, otherwise on the day when the resolution to dissolve the exchange was approved;

b) On the day when the decision of the appropriate state agency to take away the license to operate the exchange goes into force, unless the decision sets another date.

37.2. On the day when the dissolution of the exchange takes place trading of the exchange is forbidden. On the same day the authority of the exchange arbitration board to settle disputes ends, with the exception of cases which are already in arbitration.

### Liquidation

**Article 38.1.** The liquidation of the assets of an exchange is carried out by a liquidator designated by the general meeting in its resolution to liquidate the exchange or appointed by the appropriate state agency in its decision to take away the license to operate an exchange.

38.2. Resolutions of the commercial code on liquidating business companies are similarly used for the process of liquidating an exchange.

38.3. The liquidation balance is distributed among the members of the exchange according to the ratio of the membership dues and enrollment fees they paid thus far, unless the statute determines another method of distribution.

### Dissolution of an Exchange

**Article 39.1.** An exchange ceases to exist when it is erased from the companies' register.

39.2. Request to erase the exchange from the companies' register is submitted by the liquidator after the balance is distributed.

## SECTION IX

### Common, Temporary, and Closing Provisions

**Article 40.1.** Unless this law or the statute determine otherwise, the internal affairs of an exchange are subject to provisions of the commercial code on companies with limited liability, with the exception of the minimum amount of capital, minimum amount of deposit, and limit on the number of partners.

40.2. Only a person of unimpeachable character can be an agent, member of the exchange, broker, secretary general of the exchange, exchange commissioner and his deputy.

40.3. A person of unimpeachable character is considered for the purpose of this law a person who has not been sentenced for a crime involving property or some other intentionally committed crime.

**Article 41.1.** Unless it has been determined otherwise, the administrative code<sup>11</sup> applies to procedures for issuing licenses to operate an exchange under Articles 5 to 7, their removal or restriction under Article 35, procedures for stopping trade on the exchange under Article 34, Paragraph 2 c), and to procedures for imposing penalties under Article 36.

41.2. Appeals against the decisions of the exchange commissioner are decided by the appropriate state agency. Appeals against decisions on matters under

Article 34, Paragraph 2 c) and decisions on imposing penalties named in Article 36, Paragraph 1, do not have a delaying effect.

**Article 42.** Until the general rules for arbitration proceedings are published, the provisions of legal norms on arbitration proceedings in international trade relations<sup>12</sup> will be used.

**Article 43.** The laws of the national councils will designate the appropriate state agencies who will function according to this law.

**Article 44.1.** Legal entities, which were established before this law goes into force, and which have in their name the term "exchange" or are engaged in activity named in Article 1, must obtain within six months from the day this law goes into force a license to operate an exchange and adopt their legal relations to this law, otherwise the court will dissolve them even without a petition and will order their liquidation.

44.2. The court will also abolish a legal entity which on the day this law goes into force has in its name the term "exchange" and does not engage in activity under Article 1 or activity named in another law on exchanges, if it does not change its business name within three months after this law goes into force.

**Article 45.** Repealed are:

1. Decree No. 79/1903 on how to enlist members for administration of agricultural exchanges;
2. law No. 69/1922 on the corn exchange in Bratislava and on the prohibition of futures trade with grain and milling products in Slovakia and Ruthenia.

**Article 46.** This law goes into force on 1 July 1992.

### Footnotes

1. Law No..../1992, Law Gazette, on stock exchange
2. Article 3 of Law No. 513/1991, Law Gazette, commercial code
3. Decree of the CSFR Government No. 63/1992, Law Gazette, on Business Bulletin
4. Law No. 328/1991, Law Gazette, on bankruptcy and settlement
5. Article 10 of Law No. 455/1991, Law Gazette, on trades
6. Article 9, Paragraph 3 of Law No. 99/1963, Law Gazette, civil court code, in the wording of later regulations
7. Article 17 of the commercial code
8. Section 3 of Czech National Council Law No. 552/1991, Law Gazette, on state control

9. Section 3 of Slovak National Council Law No. 418/1991, Law Gazette, on state control

10. Czech National Council Law No. 900/1990, Law Gazette, on transgressions, Slovak National Council Law No. 372/1990, Law Gazette, on transgressions, in the wording of Law No. 524/1990, Law Gazette

11. Law No. 71/1967, Law Gazette, on administrative proceedings (administrative code)

12. Law No. 98/1963, Law Gazette, on arbitration procedure in international trade relations and implementation of awards.

**Law on Investment Companies, Investment Fund**  
*92CH0614B Prague HOSPODARSKE NOVINY in*  
*Czech 20 May 92 pp 23-24*

[Law approved by the Federal Assembly of the Czech and Slovak Federal Republic effective 28 April: "Law of 28 April 1992 on Investment Companies and Investment Funds"]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic approved the following law:

**SECTION 1**  
**Introductory Provisions**

**Article 1.** This law regulates the activity of investment companies and investment funds, protection of investors, and government supervision over the activities of investment companies and investment funds.

**Article 2.1.** An investment company and an investment fund are legal entities that accumulate financial means form legal entities and physical persons for the purpose of using them to participate in enterprises under this law (mutual investment).

**2.2.** An investment company can only have the form of a joint stock company or a limited liability company.

**2.3.** An investment fund can only have the form of a joint stock company.

**2.4.** Provisions of the commercial code<sup>1</sup> apply to an investment company and an investment fund, with deviations named in this law.

**2.5.** For the purpose of this law investment points<sup>2</sup> are also considered as financial means.

**Article 3.1.** Activity named in Article 2, Paragraph 1, cannot be engaged in by entities other than investment companies and investment funds.

**3.2.** Activity other than activity named in Article 2, Paragraphs 1 and 7, can be engaged in by investment companies and investment funds only if such activity is directly related to the activity named in Article 2, Paragraph 1.

**3.3.** Investment companies and investment funds are not permitted to issue debentures.

**SECTION 2**  
**Investment Company**

**Article 4.1.** An investment company established as a joint stock company may issue only registered stock.

**4.2.** An investment company established as limited liability company must establish a supervisory board.

**4.3.** The trade name of an investment company must contain the term "investment company." Other entities are not permitted to have this term in their trade name.

**Article 5.1.** An investment company accumulates financial means by selling stock certificates from which it creates stock funds. A stock fund is not a legal entity.

**5.2.** Assets accumulated by an investment company in the stock fund is the joint property of the owners of stock certificates (Article 11). Provisions of the civic code on joint ownership<sup>3</sup> do not apply to assets in the stock fund. Each joint owner may exercise his rights towards the investment company.

**5.3.** Assets accumulated under Paragraph 1 are entrusted to the management of the investment company. The investment company uses them to buy securities or deposits them in special bank accounts and manages them in its own name and on the account of the shareholders.

**5.4.** An investment company is obliged to account for the status and movement of assets in each stock fund separately from its own assets and the assets in the other stock funds.

**Article 6.1.** An investment company may sell stock certificates and create a stock fund only after it has been fully capitalized. If the investment company creates more stock funds, it must distinguish them by name.

**Investment Fund**

**Article 7.1.** An investment fund accumulates assets by issuing shares.

**7.2.** An investment fund uses assets accumulated under Paragraph 1 to buy securities, properties and movable assets, make investments based on silent partnership contracts, or deposits them in a special bank account.

**7.3.** An investment fund manages assets under to Paragraph 1 by itself or contracts with an investment company to manage them. The contract determines the kind and extent of the services rendered. The investment company acts in the name of the investment fund and on its account.<sup>4</sup>

**7.4.** An investment fund may issue only shares of par value, and is not permitted to issue priority or staff shares.

7.5. The trade name of the investment fund must contain the term "investment fund." Other entities must not use this term in their trade name.

#### **Establishment of an Investment Company and an Investment Fund**

**Article 8.1.** A license is necessary to establish an investment company and an investment fund, to split them, to consolidate them, or merge them with another investment company or investment fund. Only investment companies under this law can be created by splitting or merging investment companies. Only investment funds under this law can be created by splitting or merging investment funds.

8.2. The license is applied for by the founders and issued by the central state agency of the Czech Republic or the central state agency of the Slovak Republic, designated by the law of the Czech National Council or the Slovak National Council (hereafter "appropriate state agency").

8.3. In the application for license under Paragraph 1, the applicant must state:

a) The trade name and place of business of the investment company or the investment fund;

b) The amount of capital;

c) Material, personal, and organizational conditions for the activity of the investment company or the investment fund;

d) Professional competency and unimpeachable character of the proposed statutory bodies, its members, and members of the supervisory board of the investment company or the investment fund;

e) The bank that will act as the depository for the investment company or the investment fund;

f) Other facts required by this law.

8.4. To the application for license to operate an investment company or an investment fund must be attached documents giving evidence of the establishment of the joint stock company and its articles of incorporation, or documents giving evidence of the establishment of a limited liability company and the statute of the investment or stock fund (Article 15).

8.5. If the investment fund is going to use the services of an investment company, the application must also contain the name of that company and information about the scope of services to be provided.

8.6. The appropriate state agency makes a decision on the application for license according to the criteria named in Paragraph 3. In doing so it will take into consideration particularly the origin and amount of capital of the investment company or the investment fund that must enable them to carry out their activity properly; for that purpose the appropriate state agency

can announce the minimum amount of capital necessary for the issuance of a license in the Business Bulletin.

8.7. The appropriate state agency will make a decision on the license application under Paragraph 1 within 60 days after receiving the application.

8.8. The license under Paragraph 1 is issued for an indefinite period and cannot be transferred to another entity.

8.9. Election or naming of new members to the bodies named in Paragraph 3, letter d) must be announced by the investment company or the investment fund to the appropriate state agency within 10 days. The election or nomination goes into effect upon approval by the appropriate state agency. If said agency does not report within 20 days that it does not approve the election or nomination, the election or nomination goes into effect on that day. The appropriate state agency takes into consideration only the aspects named in Paragraph 3-d) and Article 29.

8.10. For the purpose of this law, a person is not considered of unimpeachable character if he or she has been sentenced for a crime involving property or for some other intentionally committed crime.

#### **SECTION 3 Stock Fund**

**Article 9.1.** To issue stock certificates for the purpose of creating a stock fund, a license issued by the appropriate state agency is needed.

9.2. The application for the license under Paragraph 1 is made by the investment company. The application must contain the name of the stock fund and its statute must be attached to it (Article 15).

9.3. Part of the license under Paragraph 1 is the approval of the statute of the stock fund.

9.4. The name of the stock fund must contain the name of the investment company (Article 4, Paragraph 3) with the annex "stock fund."

9.5. Taken into account, besides the evaluation of the statute, in making the decision to grant the license under Paragraph 1 is the adequate protection of the shareholders. Provisions in Article 8, Paragraphs 6 and 7, apply similarly to making decisions on granting the license.

**Article 10.1.** An investment company can create stock funds that are open-end or closed-end.

10.2. In an open-end stock fund, the number of issued stock certificates is not limited and the shareholder has the right to have stock certificates bought back by the investment company, which is obliged to buy the stock certificate back.

10.3. In a closed-end stock fund, the number of issued stock certificates or the time when they are sold is



limited, and the shareholder is not entitled to have his stock certificate bought back by the investment company.

#### **Stock Certificate**

**Article 11.1.** A stock certificate is a security which entitles the shareholder to a corresponding share of the assets in the stock fund, and to share in the earnings from these assets, according to the statute of the stock fund.

11.2. A stock certificate can be either a registered certificate or a bearer certificate. A registered certificate can be transferred by endorsement. The provision of the law on bills of exchange applies similarly to endorsements. A bearer certificate can be transferred by presenting it.

11.3. A stock certificate must contain:

- a) Name of the investment company which issued the stock certificate and the name of the stock fund;
- b) The face value of the stock certificate;
- c) Indication whether it is an open-end or closed-end stock fund;
- d) Indication whether it is a registered or bearer certificate, and if it is a registered certificate also the name of the shareholder;
- e) Date when the stock certificate was issued.

11.4. A stock certificate of equal value establishes equal rights for all shareholders.

**Article 12.1.** A stock certificate is sold by the investment company when it creates the stock fund at face value, at the latest, six months after it begins selling the stock certificates.

12.2. After the period named in Paragraph 1, the investment company sells the stock certificate for an amount corresponding to its share of the assets in the stock fund as ascertained by the procedure under Article 17, Paragraph 4. This amount can be increased by a surcharge named in the statute of the stock fund.

12.3. A stock certificate cannot be paid for other than in cash. Money made by the sale of stock certificates are deposited without delay in the account of the investment company established for the stock fund.

#### **Buying Back Stock Certificates**

**Article 13.1.** In buying back a stock certificate, the investment company uses money from the assets of the stock fund for an amount established similarly as in Article 12, Paragraph 2. This amount can be reduced by the deduction named in the statute of the stock fund.

13.2. The investment company is obliged to buy back the stock certificate without unnecessary delay, but at the latest in one month after the right to the buying back of the share certificate has been exercised.

13.3. If the assets in the stock fund are not sufficient to cover the purchase of the stock certificates, the investment fund must sell some of the securities in the stock fund. For the period of time before the securities are sold, but for no longer than three months, the investment company may use its own money or take out a short-term loan to buy the stock certificate back.

13.4. The investment company may, in special circumstances, defer, but for no longer than three months, the buying back of the stock certificate if it is in the interest of the shareholders. This deferment and the reason for it must be reported without delay to the appropriate state agency, and the shareholders must be informed about it in a suitable manner. The appropriate state agency can void the deferment within three days after it was informed about it, if it finds that the deferment is in conflict with the interest of the shareholders.

#### **Management of Assets in the Stock Fund**

**Article 14.1.** In managing the assets in the stock fund, the investment company is obliged to implement the rights and obligations connected with it, in its own name and on the shareholders' account, particularly:

- a) Manage the assets entrusted to it with expert care and the goal of ensuring reliable returns or growth of the assets;
- b) Take care to protect the interests of the shareholders;
- c) Keep separate books for each stock fund in the system of double-entry bookkeeping; the federal ministry of finance will set up a chart of accounts and bookkeeping procedures, the arrangement of items in the financial statement and the content of those items, the extent of the data from the financial statement to be published, and will announce its publication in the Law Gazette.

14.2. The assets in the stock fund increase or decrease according to the results of its management, and by the value of the newly sold or bought-back stock certificates.

14.3. An investment company is not permitted to use the assets of the stock fund for giving credit or guaranteeing obligations of third persons. To cover temporary needs for the management of the assets in the stock fund it can accept only short-term loans. The loan must not exceed 10 percent of the assets in the stock fund.

14.4. An investment company cannot use the assets in the stock fund to cover its obligations, which have no relation to the activity connected with managing the assets in the stock fund.

#### **SECTION 4 Statute of the Stock Fund and Statute of the Investment Fund**

**Article 15.1.** Every investment fund and every stock fund must have its own statute. Rules for adopting and

changing the statute are determined by the articles of incorporation or a partnership contract.

15.2. The buyers must have an opportunity to become acquainted with the statute of the stock fund or the statute of the investment fund before buying a stock certificate or shares. The obligation of the investment fund to have articles of incorporation is not affected.

#### **Content of the Fund Statute**

**Article 16.1.** The statute of the fund must contain in particular:

a) The direction and goals of the investment policy of the investment company in the stock fund or stock funds, or the direction and goals of the investment policy of the investment fund, particularly what assets will be bought with the accumulated financial means;

b) The principles by which the investment fund or the assets of the stock fund are managed;

c) The method of using the earnings from the assets of the stock fund or the assets of the investment fund, their sale, and the procedures in changing the valuation of the assets;

d) Information on the investment company which manages the stock fund or the scope of service which it will perform on behalf of the investment fund;

e) Name and place of business of the bank which will act as the depository for the investment company or the investment fund;

f) Method of publishing data on the management of the stock or investment funds, on changes in their statutes, and information about where these data can be obtained.

16.2. The statute of the stock fund must contain, besides the requirements named in Paragraph 1, a provision on:

a) Whether the stock fund is created as open-end or closed-end;

b) The amount of remuneration for the management of the stock fund.

16.3. Amendments of the statute of the fund must be approved by the appropriate state agency. If the appropriate state agency does not approve the changes, the amendment of the statute does not go into effect.

#### **SECTION 5 Assets in the Stock Fund and Assets of the Investment Fund**

##### **Stock Fund Assets and Investment Fund Assets Invested in Securities**

**Article 17.1.** Assets in the stock fund and assets of the investment fund can be invested in securities traded on:

a) The main market of the stock exchange;

b) The secondary market of the stock exchange;

c) Another stock market, whose quotations on that market are published;

d) The main or analogous market of a foreign stock market, on the condition that the selection of this exchange was approved by the appropriate state agency, (hereafter "publicly traded securities").

17.2. The appropriate state agency will stipulate the highest possible share of securities under Paragraph 1, letters b), c), and d) in the total assets of the stock fund or the assets of the investment fund.

17.3. An investment company or investment fund may buy the security at most and sell it at least at the price of the security for which it was traded on the stock exchange or similar stock market on the day of purchase.

17.4. The value of the securities in the assets of the stock fund or the investment fund is calculated on the basis of the rate quoted on the stock exchange or similar stock market on the day when the calculation is made. Price quotations of foreign securities named in Paragraph 1, letter d) are used similarly.

17.5. If the conditions in Paragraph 2 are not met, the investment companies or investment funds are obliged to bring the disposition of securities into accord with this provision within three months from the day when this event occurred.

17.6. The assets in the stock fund and the assets of the investment fund may also be invested in securities still nonnegotiable on the financial market (Article 17, Paragraph 1, letters a to d), which can be assumed to be accepted for trading on this market in the future.

#### **Investment Fund Assets Invested in Properties and Movable Assets**

**Article 18.1.** The assets of the investment may be invested in properties and movable assets which offer a guarantee of a safe investment.

18.2. The appraisal of properties and movable assets must be done before they are bought and later in time periods stipulated in the statute of the fund, but at least once a year. The appraisal is carried out according to regulations valid at the time it is performed. If there are no such regulations, the appraisal is performed by a court expert independent of the investment company or investment fund.

#### **Investment Fund Assets Invested Under Contract on Silent Partnership**

**Article 19.1.** The assets of an investment fund may be used as a deposit under a contract on silent partnership. Before the contract on silent partnership is concluded, an auditor must verify the management and make an appraisal of the assets of the entrepreneur in whose enterprise the investment fund will share.



19.2. The appraisal of the assets of the entrepreneur under Paragraph 1 takes place within time terms stipulated in the statute of the fund, but at least once a year.

**Evidence of Assets in the Stock Fund and  
Business Assets of an Investment Fund**

**Article 20.** Separate books are kept for assets in each stock fund and a separate financial statement prepared.

**Article 21.1.** If the value of the assets in the stock fund or the business assets of the investment fund changes as a result of changes in the rate of the securities, appraisal of real estate and movable assets, this change is noted in bookkeeping in a separate account for entering changes in appraised value. Part of the balance of this account concerning sold securities from the stock fund or part of the assets of the investment fund, if it is the result of an increase in its appraised value, is included in the earnings from the assets in the stock fund or the earnings of the investment fund, or if it is the result of a decrease in its appraised value, it is similarly included in the operating expenses of the stock fund or the operating expenses of the investment fund.

**Distribution of Returns of an  
Investment Company and an Investment Fund**

**Article 22.1.** The returns resulting from the management by an investment company of assets in the stock fund or the returns resulting from the management of an investment fund are distributed in accord with statute of the fund.

22.2. If the management by the investment company of the assets in the stock fund results in a deficit, the assets in the stock fund are reduced by the amount of this deficit, or the reserve fund of the stock fund is used to cover the deficit; if the assets of the reserve fund are insufficient, the deficit will be covered by reduction of the capital.

**SECTION 6  
Protection of Shareholders**

**Article 23.1.** In promoting the sale of shares or stock certificates, an investment company or an investment fund must not use false or misleading information or conceal facts important for existing or future shareholders in making their decisions, particularly it must not offer advantages whose reliability it cannot prove or which are not in accord with this law, or give incorrect data about personal, technical, and organizational conditions of the investment company or investment fund. This does not affect the provisions of the commercial code on unfair competition.

**Limiting and Spreading Risk**

**Article 24.1.** The value of publicly traded securities (Article 17, Paragraph 1) of the same issuer must not make up more than 10 percent of the assets in the stock fund or the assets of the investment fund. This limit does not apply to government bonds.

24.2. The assets of the investment fund must not be made up of more than 5 percent of:

- a) Deposits by the same entrepreneur under the contract on silent partnership;
- b) Value of one property or one movable asset.

24.3. In the assets of the stock fund or the assets of the investment fund there must be no more than 20 percent of the total value of securities issued by the same issuer.

24.4. The deposit of an investment company under a silent partnership contract must not be more than 10 percent of the assets of the entrepreneur with whom the contract was concluded. The entrepreneur with whom the silent partnership contract was made must not be a person who is at the same time a member of the board of directors or the supervisory board of the investment company in question or another investment company.

24.5. An investment company must make certain that:

- a) In the assets of all the stock funds it manages there is no more than 20 percent of shares by the same issuer;
- b) Assets of all stock funds which it created and manages are made up of at most 20 percent of securities of the same issuer.

24.6. Restriction named in Paragraph 5 applies also to investment funds created by the same founder.

24.7. An investment company and an investment fund must not buy stock certificates of other stock funds or shares of other investment companies and investment funds or entities that have more than a 25-percent participation in these investment companies or investment funds.

24.8. In exercising the right to buy and the right of pre-emption, and when changes occur in the rates of securities, or changes in appraised value of properties and movable assets, the limits named in the preceding Paragraphs can be exceeded for the duration of six months at the most, during which the spreading of the risk must be assured according to the preceding provisions.

24.9. The investment company and the investment fund must inform without delay the appropriate state agency that limits named in Paragraphs 1 to 6 have been exceeded.

24.10. The assets in the stock fund made up of securities, managed by one investment company, or the assets of an investment fund, must not comprise more than 10 percent of the total volume of assets in all stock funds and of the total volume of assets of the investment funds that are permitted to operate in the CSFR. In instances where a group of investment companies or investment funds is linked together through the founder, this provision applies to the entire group.

24.11. An investment company and an investment fund established by a bank or insurance company must not buy shares of its founder, depositary, or other banks and insurance companies.

**Obligation to Provide Information About  
the Management of an Investment Company  
and an Investment Fund**

**Article 25.1.** The investment company is obliged to publish within three months following the end of the half-year and of the year information about its management, and at the end of the year also its financial statement and the financial statement of the stock funds. This also applies to the investment fund. The financial statement is verified by an auditor.

25.2. Investment companies and investment funds which have existed for more than three years include in their annual statement a review of the results of their management during the preceding three years.

25.3. The investment company will include in the statement under Paragraph 1 information on the changes in the value of stock certificates and information on the sale and buying back of stock certificates under Article 13, and the amount for which they were sold or bought.

25.4. The investment company is obliged to publish at least once a week, unless the statute of the stock fund stipulates a shorter term, information about the sale, buying back, and price of repurchased stock certificates of the open-end stock fund.

25.5. Statements named in Paragraphs 1, 2, and 3 are presented to the appropriate state agency and the supervisory board.

25.6. An investment company and an investment fund must, on the request of the appropriate state agency, evidence the volume of assumed obligations, sufficient means to meet them, and the origin of its business assets. If they do not respond to the request even in the additionally stipulated term of 10 days, the appropriate state agency will take away the license of the investment company or the investment fund, granted under Article 8.

**Article 26.** The appropriate state agency is authorized by the provisions published in the Commercial Bulletin to determine the method and extent of publicizing information important for evaluating the activity of the investment company and the investment fund.

**Article 27.** Remuneration for an investment company for managing the stock fund or for services provided to an investment fund must not exceed 2 percent of the average net asset value in the stock fund or the assets of the investment fund, or 20 percent of the earnings of the stock fund or the investment fund.

**Obligation To Maintain Secrecy**

**Article 28.1.** Persons, who are the statutory body, are its members or are members of the supervisory board, employees of the investment company, investment fund and the depositary, as well as employees of the appropriate state agency, are obligated to maintain secrecy about facts concerning the business interests of the investment company, investment fund, and the depositary.

28.2. Persons mentioned in Paragraph 1 will be released, for the purpose of court proceedings and prosecution at the request of the court or other agency involved in the court proceedings, from the obligation to secrecy by the board of the investment company, investment fund, depositary, or the head of the appropriate government agency.

28.3. The obligation to secrecy according to Paragraph 1 remains even after the cessation of membership or employee relationship of persons, mentioned in Paragraph 1, with the above mentioned agencies.

**Restrictions on Participation by Some Persons on  
the Board of Directors and Supervisory Board of  
Investment Companies and Investment Funds**

**Article 29.1.** The board of directors of the depositary and its supervisory board must not be composed of more than one-third of employees of the investment company or the investment fund.

29.2. The board of directors of an investment company and investment fund and their supervisory boards must not be composed of more than one-third of employees of the company.

29.3. An employee of the investment company or investment fund must not be at the same time an employee of another investment company or investment fund. A person employed in one investment company must not be a member of the board or the supervisory board of another investment company. Members of the board and supervisory board of an investment company or investment fund must not serve on the board of a stock exchange.

29.4. Deputies of the Federal Assembly, Czech National Council or Slovak National Council, members of the CSFR Government, Czech Republic Government or Slovak Republic Government, employees of central administrative agencies of the CSFR, Czech Republic, Slovak Republic, Czechoslovak State Bank, the stock exchange, legal entities who perform registration of securities, or persons who do not meet the requirement of unimpeachable character under this law (Article 8, Paragraph 10), are not permitted to serve on the board or be members of the supervisory board of the investment company or investment fund.

29.5. Persons, who were excluded from trading with securities according to a special regulation, are not permitted to be employees of an investment company or

investment fund or serve on its board and its supervisory board. Members of the board, supervisory boards, and brokers of the company who are licensed to trade securities cannot be at the same time members of the board and supervisory board of an investment company or investment fund.

29.6. Persons, who are members of the board, members of the supervisory board, and employees of an investment company and an investment fund and persons close to them<sup>5</sup> are not permitted to buy properties and movable assets that comprise the assets in a stock fund or the assets of an investment fund or an investment company, or sell properties or movable assets to an investment company or an investment fund. This provision does not apply to the buying and selling of stock certificates.

29.7. Persons, who are members of the board or the supervisory board of one investment company or investment fund cannot be at the same time members of the board or supervisory board of another investment company or investment fund.

#### SECTION 7 Depositary of an Investment Company and an Investment Fund

**Article 30.1.** Performing the function of a depositary for an investment company or an investment fund (hereafter "depositary") is reserved for the bank by a contract.

30.2. The contract under Paragraph 1 stipulates the scope and remuneration for the services which the depositary performs on behalf of the investment company and investment fund.

30.3. The contract under Paragraph 1 may be cancelled by the parties concerned. The length of notice is six months, unless a longer term was agreed upon in the contract. However the length of notice stipulated in the contract cannot be longer than two years.

30.4. If the depositary loses the license to operate as a bank, or if its activity is restricted, or if it is under compulsory administration,<sup>6</sup> the contract under Paragraph 1 is considered cancelled on the day these measures go into force. In such a case the length of notice is 10 days, and the investment company or investment fund must conclude a contract under Paragraph 1 with another bank within one month after the expiration of the term of notice.

**Article 31.** An investment bank will open with the depositary an independent account for itself and for each stock fund it creates. An investment fund will open an account with its depositary.

**Article 32.1.** The depositary is obliged to check that the value of the securities procured for the assets of the stock fund or the value of the securities, properties and movable assets procured for the assets of the investment fund, was calculated in accord with this law.

32.2. If instructions given by the investment company or the investment fund are in conflict with this law, the statute of the fund, or the contract under Article 30 of this law, the depositary will not act on them and will bring it to the attention of the investment company or the investment fund, and at the same time will also notify the appropriate state agency.

32.3. In carrying out its activities, the depositary has the right to request the investment company and the investment fund to provide information about their activities that it needs for the performance of its function; it also has the right to request the investment company to provide information about the stock funds it is managing.

32.4. The depositary is responsible to the investment company or the investment fund for dereliction of its legal duties in the performance of its function.

**Article 33.** The appropriate state agency is authorized to order the investment company and the investment fund to change the depositary, if it finds that the depositary is not fulfilling its task in accord with this law.

#### SECTION 8 Cessation of Activity by the Investment Company and the Investment Fund

**Article 34.1.** Dissolution and liquidation of an investment company and an investment fund is governed by the commercial code, unless this law stipulates otherwise.

34.2. The court will abolish an investment company or an investment fund on the request of the appropriate government agency, if this agency takes away from them the license granted under Article 8. On the day the license is taken away, the investment company or the investment fund must cease their operations under this law.

34.3. The appropriate state agency names and recalls the liquidator of an investment company or an investment fund as proposed by the general meeting. If the investment company or the investment fund are dissolved by the court, the court will name and recall the liquidator as proposed by the appropriate state agency.

34.4. The assets in the stock fund are not part of the assets in bankruptcy.

**Article 35.1.** The investment company must close the stock fund and pay out the shares to the shareholders:

a) If shareholders in the stock fund return more than one-third of the stock certificates in the course of the preceding six months;

b) If the appropriate state agency took away its permit to create a stock fund.

35.2. If an investment company is declared bankrupt, the administrator of the assets in bankruptcy will ensure that all stock funds are closed and that their shareholders are paid their shares.

35.3. After an investment company is dissolved, the depositary repays the stock certificates to the shareholders and ends the management of the stock funds, or the appropriate state agency at the suggestion of the depositary will decide to transfer the assets of the dissolved investment company to another investment company while keeping the present statute of the stock funds.

### SECTION 9 State Supervision

**Article 36.1.** The activity of an investment company and an investment fund and the activity of the depositary is subject to state supervision, which is performed by the appropriate state agency.

36.2. In its supervisory role the appropriate state agency sees to it that this law and the statute of the fund is observed, that the interests of the shareholders in the stock fund and the investment fund are protected, and if it discovers deficiencies, impose penalties under Article 37 of this law.

36.3. In performing its supervisory task, the appropriate state agency is authorized to request the investment company and the investment fund to furnish information on their activity and the stock funds which the investment company is managing, to the extent necessary for carrying out state supervision.

### SECTION 10 Penalties

**Article 37.1.** If during the performance of its supervisory duties the appropriate state agency finds that the investment company or the investment fund do not maintain a sufficient amount of liquid assets in relation to the promises made to the shareholders, it will take away from that investment company or investment fund the license granted under Article 8.

37.2. If during the performance of its supervisory duties the appropriate state agency finds that the investment company, investment fund, or depositary are derelict in their duties stipulated in this law or the statute of the fund, it can, depending on the seriousness and nature of the ascertained transgressions:

a) Order to remedy the problem within a stated time limit and to notify the appropriate state agency about the measures taken;

b) Impose a fine up to the amount of 1,000,000 Czechoslovak korunas [Kcs];

c) Temporarily stop, for no longer than 6 months and within certain limits, the use of assets in the stock fund and the assets in the investment fund, and stop for that period of time further sale of stock certificates and

issuing of shares, and at the same time instruct the manager of the assets that no harm must come to the shareholders;

d) Take away the license granted under Article 8.

37.3. If the appropriate state agency finds that an unauthorized person is engaging in an activity which an investment company or an investment fund is authorized to perform under this law, it will forbid that person to engage in such activity and will impose a fine up to Kcs10 million, if a criminal act is not involved.

37.4. Penalties under Paragraphs 2 and 3 can be imposed up to two months from the day on which the appropriate state agency learned about the facts decisive for imposing them, but at the latest two years from the day when the infringement of obligation last occurred.

37.5. Penalties under Paragraphs 2 and 3 are a revenue of the state budget of the Czech Republic or the Slovak Republic depending on the residence of the person on whom the penalty was imposed.

### SECTION 11

**Article 38.1.** Investment companies, stock funds created by them, and investment privatization funds created under special rules,<sup>7</sup> investment companies and stock funds operating under special rules,<sup>8</sup> are considered to be investment companies and investment funds under this law if they bring their status and their activity into accord with this law within six months after it goes into force, unless it is stipulated otherwise.

38.2. The current founder of an investment privatization fund can continue to engage in such activity under Article 7, Paragraph 3, for the period of six months after this law goes into force. If the founder does not change within this period into an investment company under Articles 4 to 7, he must end his activity for the investment privatization fund.

38.3. The contract with a depositary under Article 30 must be concluded by the privatization fund and the investment company within six months after this law goes into force.

38.4. The statute of the fund under Article 15 must be presented by the investment privatization fund or the investment company to the appropriate state agency within three months after this law goes into force.

38.5. If on the day this law goes into force the limitation and spread of risk is different from what is stipulated in Article 24, the investment companies and investment privatization funds are obliged to bring the limitation and spread of risk into accord with the provision in Article 24 by 31 December 1993 at the latest.

38.6. If the investment company or the investment privatization fund do not fulfill the obligations named in Paragraphs 1 to 5 within the stipulated time limit, the

appropriate state agency will take away their licenses and petition the court to dissolve them.

38.7. Provisions in Article 17, Paragraphs 1 and 2 must be met by 31 December 1993 or according to the determination by the appropriate state agency.

38.8. Investment companies and investment privatization funds established on the day this law goes into force are obliged to report, within two months after this law goes into force, to the appropriate state agency which issued the license for their activity, the total number of contracts including the content of the promise to pay certain amounts after a certain time, the total amount of thus payable investment points<sup>2</sup> in the appropriate privatization wave, and the total monetary value of these contracts. If the law of the Czech National Council or the law of the Slovak National Council designates the appropriate state agency by that time, these investment companies, investment privatization funds, and investment funds will give the report under this paragraph to that agency.

38.9. The provisions of Article 27 of this law do not affect contract relations already made between founders or managers of investment privatization funds and these funds created according to special rules, with the stipulation that these relations must be brought into accord with this law by 31 December 1993 at the latest.

**Article 39.** This law goes into force on the day it is declared.

#### Footnotes

1. Law No. 523/1991, Law Gazette, commercial code.
2. Article 5, decree of CSFR Government No. 383/1991, Law Gazette, on issuing and use of investment coupons, in the text of decree of CSFR Government No. 69/1992.
3. Article 136 to 142 of Law No. 40/1964, Law Gazette, civil code, in the text of later regulation (full text issued under No. 47/1992, Law Gazette).
4. Articles 566 and following of the commercial code.
5. Article 116 of the civil code.
6. Articles 27 to 35 of Law No. 21/1992, Law Gazette.
7. Law No. 92/1991, Law Gazette, on condition for transferring state property to other persons, in the text of Law No. 92/1992, Law Gazette, decree of CSFR Government No. 383/1992, Law Gazette, on issuing and use of investment coupons, in the text of decree of the CSFR Government No. 69/1992, Law Gazette.
8. Article 14, Paragraph 2 of Law No. 158/1969, Law Gazette, on banks and insurance companies.

#### Law on Income Tax

92CH0633A Prague *HOSPODARSKE NOVINY*  
in Czech 26 May 92 pp 15-18

[Text of income tax law passed by the Federal Assembly of the Czech and Slovak Federal Republic, 28 April 1992]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has agreed upon the following law:

#### Section 1

- 1) This law regulates:
  - a) The tax on the income of individuals;
  - b) The tax on the income of legal entities.

#### PART ONE INDIVIDUAL INCOME TAX

##### Section 2. Payers of Individual Income Tax

- 1) Taxpayers of individual income tax are individuals (hereinafter referred to as "taxpayers").
- 2) Taxpayers who have a domicile on the territory of the Czech and Slovak Federal Republic or who normally sojourn here have a tax obligation which applies both to any income derived from sources on the territory of the Czech and Slovak Federal Republic and also income derived from sources abroad.
- 3) Taxpayers who do not have a domicile on the territory of the Czech and Slovak Federal Republic and who normally do not sojourn here have a tax obligation which is based on their income derived from sources on the territory of the Czech and Slovak Federal Republic.
- 4) Taxpayers who normally sojourn on the territory of the Czech and Slovak Federal Republic are those whose stay here is at least 183 days in the appropriate calendar year, either contiguously or in several different periods, with the exception of those who are staying here for purposes of study or medical treatment. The length of stay includes each day of sojourn which has begun, with the exception of a taxpayer who has income from sources located on the territory of the Czech and Slovak Federal Republic based on contingent activities and who crosses the border of the Czech and Slovak Federal Republic daily during agreed-upon time periods solely for purposes of implementing this activity.

##### Section 3. Individual Income Subject to Tax

- 1) The following types of individual income are subject to taxation:
  - a) Income derived from contingent activity and the emoluments of office (Section 6);
  - b) Income based on business activities and on other independent contracting activities (Section 7);



- c) Income from capital assets (Section 8);
- d) Income from rentals (Section 9);
- e) Other income (Section 10).

2) Income as defined in Paragraph 1 above is understood to be monetary income as well as nonmonetary earnings, even those obtained through barter.

3) Nonmonetary income is assigned a price value which is customary at the location and at the time of its earning, depending on its type and quality or possibly on its status and the degree to which it has been used, as long as this law or special regulations do not stipulate otherwise.

4) The following are not subject to taxation:

a) Income resulting from the acquisition of securities in accordance with a special law<sup>1</sup> as a result of inheritance, handing over,<sup>2</sup> or as a result of receiving real property or material property or property rights, with the exception of income based on these rights and excepting gifts made in conjunction with the execution of activities in accordance with Section 6 or in connection with business activities or in connection with another independent contracting activity;

b) Credits and loans.

#### Section 4. Tax Exemptions

1) The following are exempt from tax:

a) Income derived from the sale of an apartment or a dwelling house having a maximum of two apartments, including contiguous plots of land, as long as such facilities were the domicile of the seller for a period of at least two years prior to the sale;

b) Income derived from the sale of real property not listed under Letter a) above, provided the time between the acquisition and sale of the property is longer than five years. Tax exemption does not apply to income based on the sale of real property which is the object of the taxpayer's business activities or within which the taxpayer is engaged in business activity and this provision holds good for five years following the termination of such activity;

c) Income based on the sale of material property. Tax exemption does not apply to income based on the sale of motor vehicles, aircraft, and ships, income from the sale of securities, and income resulting from the transfer of participation in commercial corporations or a share in the basic capitalization of a cooperative, provided the time between acquisition and sale or transfer as outlined does not exceed the period of one year. Exemption also does not apply to income based on the sale of material property which is the object of the taxpayer's business activities or serves him for business purposes or for another independent contracting activity and this provision is applicable up to one year from the time such

activity is terminated. This provision does not apply to income based on capital assets (Section 8);

d) Accepted damages, the proceeds of insurance or property and insurance regarding responsibility for damages, except for payments accepted as compensation for the loss of income;

e) Income based on the operation of small hydroelectric power plants with an output of up to 1 MW [megawatt], wind-powered electric power plants, heat pumps, solar facilities, facilities for the production of biogas, facilities for the production of biologically degraded materials, which are generally declared to be binding by a legal regulation, facilities for utilizing geothermal energy, within the calendar year during which such facilities were activated and for the next five years;

f) Prizes of public competitions and prizes of sporting contests where the value does not exceed 10,000 korunas [Kcs], with the exception of prizes of sporting contests received by those taxpayers for whom sports activities are a business (Section 10, Paragraph 8);

g) Accepted compensation in accordance with special regulations,<sup>2</sup> income based on the sale of real property or material property handed over in accordance with special regulations,<sup>2</sup> and interest on state bonds, issued in conjunction with rehabilitation rulings dealing with rectification of injustices;

h) Income based on payments, sports, and services provided by obligatory social insurance, employment insurance, health insurance, and payments based on obligatory foreign insurance of the same type, as well as social payments made in lieu of payments based on compulsory insurance;

i) Income made available within the framework of alimony obligations as outlined in the law on the family;

j) Social security payments and services and state payments regulated by special regulations;

k) Rewards paid by the health administration to donors of blood and other biological materials from the human organism;

l) Support payments (subsidies, stipends) made from public funds and from funds of foundations, except for payments accepted as compensation for loss of income;

m) Performance of personal insurance contracts with the exception of performance based on insurance contracts covering survival to a certain age which exceeds the surety;

n) Payments made by the Czechoslovak Army to soldiers in basic (alternate) service and to soldiers in the reserve who are summoned to attend training exercises in accordance with special regulations;<sup>3</sup>

o) Good conduct bonuses paid to members of the armed forces according to special regulations;<sup>3</sup>

p) Social payments made according to the law on some service conditions for soldiers;<sup>3</sup>

q) Payments made to citizens in conjunction with the execution of civil service functions.<sup>4</sup>

#### Section 5. Tax Base

1) The base for the tax is the amount by which the income of a taxpayer in a calendar year (hereinafter referred to as the "taxation period") exceeds the outlays which are demonstrably expended in their acquisition, assurance, and preservation, provided the individual types of incomes (Sections 6 through 10) are not subject to other provisions.

2) In the case of a taxpayer who is enjoying two or more types of incomes listed in Sections 6 through 10 simultaneously within the taxation period, the basis for the tax is the sum total of the partial tax bases, determined in accordance with the individual types of incomes, using the provisions of Paragraph 1 above.

3) In case the accounts indicate that the expenditures are in excess of the incomes listed in Sections 7 and 9, the difference is a loss. The tax base, determined in accordance with Paragraph 2, is reduced by the amount of the loss. The loss or any part of a loss which cannot be asserted during the taxing of incomes in the taxation period in which they occurred can be deducted in subsequent taxation periods, according to the provisions of Section 34.

4) Income flowing to a taxpayer who is not keeping double-entry books at least 15 days prior to the beginning of or at least 15 days following the termination of the taxation period into which he belongs economically are considered to be income within that taxation period. The procedure for judging expenditures is similar.

5) The tax base does not include incomes exempt from tax and incomes which are subject to tax collection based on a special tax rate in accordance with Section 36 in accordance with an independent tax base computation.

#### Section 6. Income Based on Contingent Activity and on the Emoluments of Official Functions

1) Income based on contingent activities is defined as follows:

a) Income based on activity engaged in on the basis of a current or former labor code, official or membership relationship or a similar relationship in which the taxpayer is obligated to follow the instructions of the payer of the income in engaging in work for the payer. This type of income is also understood to be income for the work of students and pupils based on practical training;

b) Income for the work of members of cooperatives and associates of corporations with limited liability, even where they are not obligated, in performing their work for the cooperative or for the corporation, to follow the instructions of another person;

c) Remuneration for members of statutory organs and other organs of legal entities.

2) A taxpayer having income from contingent activities is hereinafter designated as the "employee," the payer of the income is designated as the "employer."

3) Income in accordance with Paragraph 1 above is understood to be regular income or one-time income without regard as to whether a legal entitlement to this income exists or not, without regard as to whether the employee receives it from the employer, or whether the income is received by a person to whom the appropriate rights have been transferred and without regard as to whether the income is paid or credited or takes another form of performance on the part of the employer on behalf of those employees who are taxpayers being taxed on their incomes from a contingent activity.

4) Incomes according to Paragraph 1, Letter a), above, resulting from sources located on the territory of the Czech and Slovak Federal Republic for an employee based on a legal relationship concluded with an employer for a period not to exceed five calendar days in a calendar month, the cumulative total of which does not exceed Kcs3,000 in a given calendar month, are construed to be an independent tax base for purposes of taxation at a special tax rate (Section 36) after their reduction in accordance with Paragraph 12, Letter a).

5) Incomes listed in Paragraph 1, Letter c), resulting from sources on the territory of the Czech and Slovak Federal Republic are considered to be an independent tax base for taxation at a special tax rate (Section 36). If these incomes and the incomes listed in Paragraph 4 are based on sources abroad, they form the tax base (a partial tax base) according to Section 5, Paragraph 2.

6) In the event the employer makes a motor vehicle available to the employee for official and private purposes, an amount equivalent to 12 percent of the acquisition price of the vehicle is considered as income for the employee and is included in his tax base for the calendar year, or 1 percent of the acquisition price is included for each calendar month begun, if the vehicle is used only for part of a year.

7) The following are not considered to be income based on contingent activities in addition to those incomes which are not taxable according to Section 3, Paragraph 4:

a) Reimbursement of travel expenditures provided in conjunction with the execution of contingent activities, up to an amount stipulated by special regulation;<sup>5</sup> if the employer pays higher reimbursements, then the amounts which exceed those stipulated by special regulation<sup>5</sup> are taxable income according to Paragraph 1, even in the event that this special regulation<sup>5</sup> fails to place limits upon the payment of higher reimbursements;

b) The value of personal hygiene and protective work devices and protective clothing, including its maintenance (for example, overalls, uniforms);

c) Payments accepted by the employee from the employer as advances to be spent in the employer's name or payments which the employer uses to compensate the employee for documented expenditures made for the employer out of his own pocket, as if the employer himself had made these expenditures directly.

8) In addition to incomes listed in Section 4 above, the following are exempt from tax:

a) Sums expended by the employer for providing supplemental training for employees relative to his business activities; this tax exemption does not apply to sums paid to employees as compensation for lost income;

b) The value of food provided as a nonmonetary item by the employer to employees for consumption on the premises;

c) The value of nonalcoholic beverages provided as a nonmonetary item by the employer to employees for consumption on the premises;

d) Nonmonetary items made available by the employer to the employees in the form of the opportunity to utilize recreational, health, and educational facilities, preschool facilities, the enterprise library, physical training and sports facilities, or in the form of contributions to cultural events and sporting events;

e) Insurance premiums which the employer is obligated to pay for employees into the fund of social insurance, the fund of employment, and the fund of health insurance;

f) Advantages provided by an employer engaged in public transportation of passengers to his employees and their family members, in the form of free or reduced fares;

g) Income of members of housing cooperatives based on their personal performance in self-help cooperative housing construction, income which is not paid to them in cash, but is credited to their membership share.

9) Emoluments based on a function are identified as follows:

a) Salaries of members of the government, delegates to the Federal Assembly, the Czech National Council, the Slovak National Council, and the salaries for heads of central organs of state administration;

b) Remuneration for the performance of a function within the organs of communities, in other organs of territorial self-administration, in state organizations, in civic and special-interest associations, chambers, and in other organs and institutions.

10) Emoluments for the performance of an official function are not considered to be, and are not taxable as

such, compensation paid in conjunction with the execution of a function to which an entitlement exists in accordance with special regulations, with the exception of compensation for lost income.

11) The provisions of Paragraph 7 are utilized in a similar manner even for payments made in conjunction with the execution of an official function.

12) The tax base (the partial tax base) is defined as income from a contingent activity or from emoluments based on an official function, with the exception listed in Paragraphs 4 and 5, reduced by the following amount:

a) By the social insurance premium, by the employment premium, and by the health premium which the employee is obligated to pay in accordance with special regulations; for employees subject to obligatory foreign insurance of a similar type, the reduction involves the amount of this foreign insurance;

b) An amount of Kcs200 for each month of work to partially compensate the employee for the cost of transportation between his domicile and his workplace, as long as this distance does not exceed 30 km and as long as the employee works at his place of employment for more than five days within a calendar month. If the listed distance exceeds 30 km, the payment is increased to Kcs300. Holders of free or reduced tickets, made available to them by their employer who is engaged in the public transportation of passengers and makes the tickets available to his employees and their family members, are entitled to this increase only if they can prove that in being transported to their workplace they cannot make use of the free or reduced ticket.

#### Section 7. Income From Business and Independent Contracting Activities

1) Business income is defined as follows:

a) Income based on agricultural production, forestry, and water management;<sup>6</sup>

b) Income based on small business activities;<sup>7</sup>

c) Income based on other business activities according to special regulations;

d) Shares of associates of public commercial corporations and of general partners of limited partnerships in the profits of the corporation (Section 13).

2) Income based on other independent contracting activities, insofar as they are not classified as incomes listed in Section 6 are as follows:

a) Income based on the utilization or availability of rights to an industrial patent or another form of mental ownership, including rights related to copyright,<sup>8</sup> including income based on publishing, duplicating, and disseminating literary and other works at one's own expense;

b) Income based on the performance of an independent profession which is not a small business undertaking nor an entrepreneurial undertaking according to special regulations.

3) The basis for the tax (partial tax base) is formed by the types of income listed in Paragraphs 1 and 2, with the exception listed in Paragraph 6. This income is reduced by the expenditures made in support of its acquisition, assurance, and preservation, with the exception of incomes listed in Paragraph 1, Letter d). To determine the tax base (the partial tax base), use is made of the provisions of Sections 23 through 34.

4) The incomes listed in Paragraph 1, Letter d), are reduced by the amount of the social insurance premium, the amount of the employment insurance premium, and the amount of the health insurance premium which a partner in a public commercial corporation or a general agent of a limited partnership is obligated to pay, provided this insurance premium is not compensated for as an expense of the public commercial corporation or limited partnership.

5) In the event the management of the corporation involved shows an accounting loss, partners of public commercial corporations and general partners of limited partnerships shall show the share in the loss suffered by the corporation as their own loss in asserting Section 5, Paragraph 3. The loss is apportioned much like income.

6) Income listed in Paragraph 2, Letter a), up to a level of Kcs3,000, including income based on subscriptions to newspapers, periodicals, radio or television fees, based on sources located on the territory of the Czech and Slovak Federal Republic, are an independent tax base for purposes of taxation by a special tax rate (Section 36).

7) If a taxpayer does not assert the expenditures made in the acquisition, assurance, and preservation of income in a documentable manner, he may list expenditures as follows:

a) 50 percent of any income from agricultural production, forestry, and water management activities;<sup>6</sup>

b) 30 percent of the incomes listed in Paragraph 2, Letter a), with the exception of income according to Paragraph 6;

c) 20 percent of small business income, income derived from other entrepreneurial activities according to special regulations, and 20 percent of income listed in Paragraph 2, Letter b).

8) In the event the taxpayer asserts his expenditures according to Paragraph 7, the amount of expenditures shall include all expenditures of the taxpayer made in conjunction with the acquisition of incomes based on business activities and other independent contracting activities.

#### Section 8. Income From Capital Assets

1) As long as the income involved is not identified in Section 6, Paragraph 1, or Section 7, Paragraph 1, Letter d), income from capital assets is defined as follows:

a) Shares in the profit (dividends), interest, and other emoluments stemming from securities or participation in corporations having limited liability and limited partnerships and shares in the profit and similar performance based on membership in cooperatives;

b) Shares in the profit of silent partnerships participating in business activities, to the extent that these profits are not used to augment the deposit reduced by the share in losses recorded with regard to the original capitalization;

c) Interest, winnings, and other proceeds based on deposits in savings accounts, certificates of deposit, and deposits which are equivalent to them, including interest on money in deposit accounts;

d) Proceeds of endowment policies guaranteeing survival to a certain age or the proceeds of retirement insurance outside of the social insurance fund, reduced by the amount of premium paid. For purposes of computing the tax base, use is made of Section 10, Paragraph 6;

e) Interest payments and other proceeds from credits and loans made available and interest payments on deposits on current accounts;

f) Discount portions of bills of exchange.

2) Participation according to Paragraph 1, Letter a), for purposes of this law is understood to amount to a monetary and nonmonetary deposit in a business activity.

3) The following are further considered to be income based on capital assets:

a) Difference between the paid-out nominal value of a security and the sales value at the time of its issuance; in the event of a premature repurchase of a security, use is made of the price of the repurchase in place of the nominal value;

b) Income based on the sale of prepurchase rights of securities.

4) Incomes listed in Paragraph 1, Letters a), b), c), and d), and in Paragraph 3, Letter a), as long as they do not involve incomes listed in Section 6, Paragraph 1, or Section 7, Paragraph 1, Letter d), emanating from sources on the territory of the Czech and Slovak Federal Republic, are an independent tax base for purposes of taxation by a special tax rate (Section 36). If these incomes stem from sources abroad, they form the tax base (partial tax base) according to Section 5, Paragraph 2.

5) Incomes listed in Paragraph 1, Letters e) and f), and those listed in Paragraph 3, Letter b), not reduced by the amount of expenditures involved, are the basis for the tax (partial tax base).

#### Section 9. Income From Rentals

1) To the extent to which incomes listed in Sections 6 through 8 are not involved, incomes from rentals are defined as follows:

a) Income from the rental of real property, apartments, or their portions;

b) Income from the rental of material property, except for the incidental rental as outlined in Section 10, Paragraph 1, Letter a).

2) The tax base (partial tax base) is made up of incomes listed in Paragraph 1, reduced by the expenditures made for their acquisition, assurance, and preservation (Section 5, Paragraph 2). To assure the tax base (partial tax base), use is made of the provisions in Sections 23 through 34.

3) In the event the taxpayer does not assert the expenditures made in a demonstrable manner [if he does not itemize], he may assert them up to a level of 20 percent of the incomes listed in Paragraph 1.

#### Section 10. Other Income

1) Other income resulting in an increase in property is particularly defined as follows, provided the income is not the type identified in Sections 6 through 9:

a) Income based on casual activity or on the incidental rental of material property;

b) Income from the sale of personally owned real property or material property, including securities, with the exception listed in Section 4;

c) Income resulting from the transfer of participation in a corporation with limited liability, limited partnership, or from the transfer of a share in the basic capitalization of a cooperative, except as listed in Section 4;

d) Income based on inherited rights to an industrial patent or other mental ownership, including copyright rights and copyright-related rights;<sup>9</sup>

e) Accepted alimony, pensions,<sup>10</sup> and similar recurring emoluments, except for those listed in Section 4;

f) Share of a partner in a commercial corporation or a member of a cooperative in the liquidation remainder occurring as the result of the liquidation of the corporation or the cooperative;

g) Settlement share in the event participation on the part of a partner in a commercial corporation ceases, or where membership in a cooperative ceases to exist;

h) Winnings in lotteries, wagers, and other similar games and winnings of advertising contests and drawings, with the exception of those listed in Paragraph 2, Letter b);

i) Prizes in public competitions and prizes of sporting contests, with the exception of those listed in Section 4.

2) Apart from the types of income listed in Section 4, the following types of income are also exempt from taxation:

a) Income according to Paragraph 1, Letter a), as long as the cumulative total of such income does not exceed Kcs6,000 per taxation period for the taxpayer;

b) Lottery winnings, winnings of wagers and similar games operated on the basis of permits issued in accordance with special regulations.<sup>11</sup>

3) The tax base (partial tax base) is made up of the income, reduced by the expenditures which are demonstrably made in its acquisition. In the event expenditures connected with individual types of income listed in Paragraph 1 are higher than the income itself, the difference is disregarded. In the event income according to Paragraph 1, Letters h) and ch), is based on foreign sources, the tax base (partial tax base) is made up of the income which is not reduced by these expenditures.

4) In the case of incomes listed in Paragraph 1, Letter b), the expenditure is the price valuation of the item involved at which the taxpayer has demonstrably acquired it, and if the item involves an inheritance or a gift, the price which is determined for purposes of the inheritance tax or the gift tax. If the item involved was acquired on the basis of bartering, its price is considered to be the price which is customarily in effect at the location and at the time of its acquisition (Section 3, Paragraph 3). Expenditures are also defined as payments which are demonstrably made for the repair, maintenance, or other value improvement of the item involved. The value of personal work performed by the taxpayer regarding the item involved, which may have been produced by the taxpayer himself or which may have been valorized as a result of the taxpayer's own work, is not taken into account in determining the level of expenditures involved.

5) In the case of incomes according to Paragraph 1, Letters c), f) and g), expenditures are considered to be the deposit or the acquisition price of a share.

6) Pension benefits in accordance with special regulations<sup>10</sup> are considered as the tax base (partial tax base) after deducting the cost of acquisition of such benefits, divided in equal parts over the period for which the pension is received. This period is determined as the difference between the average length of life<sup>12</sup> and the age of the taxpayer at the time he first begins receiving pension benefits. Pensions paid by employers to their employees, including those paid to former employees, are defined as income according to Section 6.



7) Winnings (Paragraph 1, Letter h)) from sources on the territory of the Czech and Slovak Federal Republic form an independent tax base for purposes of taxation by a special tax rate (Section 36). If such winnings originate abroad, they form the tax base (partial tax base) according to Section 5, Paragraph 2.

8) Income based on prizes involved in public competitions and sporting contests emanating from sources on the territory of the Czech and Slovak Federal Republic forms an independent tax base for purposes of taxation by a special tax rate (Section 36). If the public contest prize includes remuneration for the use of an artistic work or for a performance, the tax base subject to taxation by a special rate is reduced by the amount of this remuneration and that remuneration is included under incomes listed in Section 7. In the case of taxpayers whose business involves sporting activities, accepted prizes based on sporting competitions are considered as income listed in Section 7. If income based on prizes resulting from public contests and sporting competitions is based on sources abroad, these incomes are the tax base (partial tax base) as defined in Section 5, Paragraph 2.

9) Prizes from contests in which the number of competitors is limited by the conditions of the contest or where the competitors are selected by the organizers of the contest are treated in the same manner as prizes based on public competitions. If, in such a contest, the prize or the cumulative total of prizes acquired by the same taxpayer exceeds the value of Kcs20,000, such incomes are incomes according to Section 7. Incomes resulting from competitions announced by an employer for his employees are considered to be incomes according to Section 6.

#### **Section 11. Computation of Co-Owner Income**

Income derived jointly by two or more taxpayers on the basis of co-ownership of an item or income based on joint rights and joint expenditures made in its acquisition, assurance, and preservation is apportioned among taxpayers according to their co-ownership shares.

#### **Section 12.**

##### **Computing the Income of a Participant in an Association Which Is Not a Legal Entity**

1) Incomes derived by taxpayers as a result of joint business ventures or some other joint independent contracting activity (Section 7) on the basis of a contract regarding a joint venture and the expenditures made in their acquisition, assurance, and preservation are apportioned equally among taxpayers, unless the contract on the joint association stipulates otherwise.

2) The income of taxpayers who live in a common household and which is derived from a joint venture or another joint independent contracting activity, as well as the expenditures made for its acquisition, assurance, and preservation, is apportioned among the taxpayers in accordance with their share in the joint income involved.

Income cannot be apportioned among children of school age, not even within the calendar year in which they end their school attendance and cannot be ascribed to children and the spouse, as long as they are claimed as dependents (Section 15).

#### **Section 13.**

##### **Computation of the Tax Base for a Partner in a Public Limited Partnership**

1) A public commercial corporation shall determine the tax base for the corporation as a whole (Section 23) and shall, according to the shares listed in the partnership agreement, apportion this tax base among the individual partners, for whom this apportionment forms the tax base (partial tax base) according to Section 5, Paragraph 2, provided the partner is an individual, or, if the partner is a legal entity, the apportionment is included in the tax base according to Section 23. Any losses suffered by a public commercial corporation (Section 34) are apportioned in the same manner as is the tax base.

2) The tax base of a public commercial corporation is not reduced by the amount of gifts identified in Section 20, Paragraph 4. Gifts are judged to be gifts made available to individual partners in accordance with Section 15, Paragraph 7, and are apportioned among individual partners in the same manner as is the tax base which has been determined for the public commercial corporation.

3) A limited partnership determines the tax base for the corporation as a whole (Section 23). The shares ascribed to individual limited partners according to the partnership agreement are deducted from this tax base and form the tax base for the limited partners in accordance with Section 5, Paragraph 2, provided the limited partners are individual taxpayers, or, in the event the limited partners are legal entities, their tax base is that which is defined in Section 23. The remainder of the tax base is the tax base for the limited partnership. Losses suffered by a limited partnership are apportioned in the same manner as is the tax base.

4) Gifts made to limited partnerships (Section 20, Paragraph 4) are distributed to the general partner and to the limited partnership in the same proportion as they share in the tax base which has been determined for the corporation as a whole. The proportionate part of any gifts apportioned to the general partner are judged as gifts made available by the individual limited partners.

#### **Section 14.**

##### **Computation of the Tax on Incomes Earned Over Several Taxation Periods**

1) The incomes listed in Paragraph 2, which are the results of several years of taxpayer activity or which emanate from the utilization of items and rights over several years at once may be divided equally over the taxation period during which they were earned and may be carried back to previous taxation periods, but may be broken up into no more than three proportionate parts.

Income based on forestry management and acquired as a result of the extraction of timber may be divided into a maximum of 10 proportionate parts. Expenditures relative to these incomes which were already asserted in taxing incomes in previous taxation periods are disregarded. One proportional part is included in the tax base for the taxpayer during the taxation period during which the income was earned and during which the percentage of tax due on the tax base was determined. This percentage is used to compute the tax for the remaining portions or the remaining parts of the income earned over several taxation periods.

2) Computation of the tax according to Paragraph 1 above is used only for the following incomes:

a) Income based on agricultural production, forestry, and water management<sup>8</sup> (Section 7, Paragraph 1, Letter a));

b) Incomes listed in Section 7, Paragraph 2, Letter a),<sup>8</sup> and the activities of restorers of cultural monuments and collections.

#### Section 15. Tax-Exempt Portion of the Tax Base

1) The tax base is reduced by the following amounts:

a) Kcs20,400 per year per taxpayer;

b) Kcs9,000 per year per maintained child living in a common household with the taxpayer, but applicable to a maximum of four children; the temporary sojourn of a child outside the common household does not affect the above reduction;

c) Kcs12,000 per year for a spouse living with the taxpayer in a common household, as long as the spouse does not have personal income exceeding Kcs20,400 per year;

d) Kcs6,000 per year, in the event the taxpayer is the recipient of a partial disability pension or in the event the taxpayer is a partial invalid, as defined in special regulations;

e) Kcs12,000 per year, in the event the taxpayer is the recipient of a partial disability pension or another type of pension, one of the conditions for which is the recognition of the disability, or if the taxpayer is an invalid according to special regulations, but if his application for a disability pension was rejected for other reasons than for reasons of his disability; however, if the taxpayer has a "ZTP-P" (particularly seriously disabled with an attendant or guide) card, this amount is raised to Kcs36,000 per year.

2) A taxpayer who is the recipient of an old-age pension from the social insurance fund in excess of Kcs20,400 per year may not reduce his tax base by the amount listed under Paragraph 1, Letter a). If the old-age pension does not exceed Kcs20,400 per year, the amount listed in Paragraph 1, Letter a), may be used, but only if it is

reduced by the amount of the old-age pension. Supplemental payments for children and for educational purposes are disregarded.

3) In the case of taxpayers listed in Section 2, Paragraph 3, the tax base is not reduced by the amount listed in Paragraph 1, Letters b) through e).

4) A dependent child of the taxpayer (his own, an adopted child, a child being cared for in lieu of care provided by its parents) is considered to be:

a) A minor child;

b) A major child up to age 26, provided the child is not the recipient of a disability pension and:

(1) Is consistently preparing for a future profession by studying or by following a prescribed course of training or

(2) Is unable to prepare for a future profession or is unable to be employed because of sickness or

(3) Is incapable of consistently preparing for a future profession or is capable of preparing for such a profession only under extraordinary circumstances because of long-term health problems.

5) In the event a child listed in Paragraph 4, Letter b), above gets married and lives in a common household with a spouse, the spouse can assert a reduction in the tax base under conditions listed in Paragraph 1, Letter c), above. In case the spouse has no income to which the reduction could be applied, a reduction according to Paragraph 1, Letter b), may be asserted by the parent of the child or by the taxpayer who is caring for the child in lieu of parental care, as long as the child lives with him in a common household.

6) If several taxpayers (for example, a married couple) maintain a child (children) within the framework of a single common household, only one of them may claim such a child (children) for purposes of taxation.

7) A taxpayer, for whom the conditions which are decisive for reducing the tax base according to Paragraph 1, Letters b) through e), above last only several calendar months within a taxation period, may reduce the tax base only by an amount equal to one-twelfth for each calendar month at the beginning of which these conditions were fulfilled. A taxpayer may claim a child starting with the month in which the child was born.

8) The tax base may be reduced by the value of gifts made to communities and to legal entities having a seat on the territory of the Czech and Slovak Federal Republic to finance science and education, culture, the school system, fire protection, to support and protect young people, for purposes of social, health, ecological, humanitarian, charity purposes, for religious communities recognized by the state and for religious societies, for physical training and sports purposes provided the cumulative total of such gifts in a taxation period

exceeds 2 percent of the tax base or Kcs1,000. The maximum permissible tax base reduction amounts to 10 percent.

#### Section 16. Tax Rate

The tax on the tax base, reduced by the tax-exempt portion of the tax base (Section 15) and rounded off to the next lower Kcs100, is as follows:

If Adjusted Tax Base Is More Than (Kcs)	But Less Than (Kcs)	Then Tax Is as Follows on Excess Shown
—	60,000	15%
60,000	120,000	Kcs9,000 + 20% of excess over Kcs60,000
120,000	180,000	Kcs21,000 + 25% of excess over Kcs120,000
180,000	540,000	Kcs36,000 + 32% of excess over Kcs180,000
540,000	1,080,000	Kcs151,000 + 40% of excess over Kcs540,000
1,080,000	And more	Kcs367,200 + 47% of excess over Kcs1,080,000

### PART TWO TAX ON THE INCOME OF LEGAL ENTITIES

#### Section 17. Taxpayers of the Tax on the Income of Legal Entities

- 1) The payers of the tax on the income of legal entities are persons who are not individual taxpayers, with the exception of legal entities listed in Paragraph 2.
- 2) Taxpayers of the tax on the income of legal entities (hereinafter referred to as the "tax") are not public commercial corporations.
- 3) The State Bank of Czechoslovakia is exempt from tax.<sup>13</sup>
- 4) Taxpayers who have their seat on the territory of the Czech and Slovak Federal Republic have a tax obligation which pertains both to incomes emanating from sources on the territory of the Czech and Slovak Federal Republic and also on incomes based on sources abroad.
- 5) Taxpayers who do not have a seat on the territory of the Czech and Slovak Federal Republic have a tax obligation which pertains only to those incomes stemming from sources on the territory of the Czech and Slovak Federal Republic (Section 22).

#### Section 18. Object of the Tax

- 1) The tax applies to incomes (proceeds) from all activities and from the handling of all property, provided this law does not stipulate otherwise.
- 2) In case of investment corporations which create share funds,<sup>14</sup> the tax applies to all income of these investment corporations and incomes for the share funds; incomes do not include those incomes which are taxed by special rates (Section 36).
- 3) The tax does not apply to incomes acquired through inheritance or as a result of gifts of real estate or material property or to property rights with the exception of incomes resulting from such rights.
- 4) In the case of taxpayers who are not registered in the Commercial Register or are not in business on the basis

of a small business permit, the tax applies only to incomes based on the activities engaged in for purposes of achieving a profit or based on activities, the conduct of which may lead to the creation of profit, including incomes based on the proceeds of the sale of securities.

5) Taxpayers according to Paragraph 4 above are particularly considered to be special-interest groupings of legal entities as long as these associations have a legal subjectivity, civic associations, including trade union organizations, political parties and movements, state-recognized churches and religious societies, endowments, budgetary and contributory organizations, state funds, health service funds, social funds, and the employment fund.

6) With respect to national property funds<sup>15</sup> and for communities, the tax applies only to incomes based on the proceeds of the sale of securities.

#### Section 19. Tax Exemption

The following types of income are exempt from tax:

- a) Membership contributions accepted by special-interest groupings of legal entities, by civic associations, including trade union organizations, by political parties and movements;
- b) Incomes of taxpayers listed in Section 18, Paragraph 4, based on activities which are their mission and which cannot be the object of competition involving other individuals, if they are proportional to the costs expended;
- c) Proceeds of church collections, income derived from church activities, and regular contributions of members involved in state-recognized churches and religious societies;
- d) Incomes of cooperatives based on rentals and compensation connected with the utilization of cooperative apartments and cooperative garages;
- e) Incomes based on the operation of small hydroelectric power plants with a capacity of less than 1 MW, on the operation of wind-powered power plants, heat

pumps, solar facilities, installations for the production of biogas, facilities for the production of biologically degradable materials which are identified by a generally binding legal regulation, facilities for the utilization of geothermal energy, within the calendar year in which these facilities were activated and over the next five years;

f) Incomes of state funds as stipulated in special regulations;<sup>16</sup>

g) Profits of operators of lotteries and other similar games permitted in accordance with special regulations<sup>11</sup> of which at least 90 percent is intended for public benefit purposes.

#### Section 20. Tax Base

1) The provisions of Sections 23 through 34 apply with respect to determining the tax base.

2) In the case of taxpayers whose activities are liquidated, the tax base is the liquidation remainder.

3) For purposes of this law, the liquidation remainder is understood to be the difference by which the amount of income based on liquidation plus the net worth of the taxpayer exceeds expenditures (costs) connected with the liquidation.

4) The tax base can be reduced by deducting the value of gifts made to communities and to legal entities with a seat on the territory of the Czech and Slovak Federal Republic for purposes of financing science and education, culture, the school system, fire protection, support and protection of young people, social, health, and ecological, as well as humanitarian and charitable purposes, and religious purposes for state-recognized churches and religious societies, physical fitness and sports purposes, as long as the value of the gift is at least Kcs2,000. It is permissible to deduct a cumulative maximum of 2 percent of the tax base in this manner.

5) The tax base is rounded off to the next lowest whole Kcs1,000.

#### Section 21. Tax Rate

The tax rate amounts to 45 percent of the tax base, reduced by deducting the amounts listed in Section 20, Paragraph 4, and in Section 34 and of the liquidation remainder (Section 20, Paragraph 2).

### PART THREE COMMON PROVISIONS

#### Section 22. Income Sources

1) The following are considered incomes from sources on the territory of the Czech and Slovak Federal Republic with respect to taxpayers listed in Section 2, Paragraph 3, and Section 17, Paragraph 5:

a) Income based on activity conducted in a permanent operating facility;

b) Income based on a dependent activity which is engaged in on the territory of the Czech and Slovak Federal Republic or aboard vessels flying the Czechoslovak state flag or aboard Czechoslovak aircraft;

c) Income resulting from commercial, technical, or other consulting functions, brokerage activities, and similar activities engaged in on the territory of the Czech and Slovak Federal Republic;

d) Income based on compensation received from legal or physical entities with a seat or domicile on the territory of the Czech and Slovak Federal Republic, specifically the following:

(1) Fees paid for providing and utilizing any enforcement of the rights to industrial ownership, for making use of proposals or models, plans, for making available production-technical and other economically usable findings;

(2) Fees for utilizing copyrights or copyright-related rights;

(3) Income based on the independent activities of a lecturer, artisan, architect, sports person, artist, or a partner in such activities, engaged in or valorized on the territory of the Czech and Slovak Federal Republic;

(4) Shares in profits, settlement shares, shares in the liquidation remainder of commercial corporations and cooperatives, and other income based on capital assets;

(5) Part of the after-tax profits paid to silent partners;

(6) Interest and other proceeds based on credits and loans, deposits, and securities;

(7) Incomes based on rental pertaining to items located on the territory of the Czech and Slovak Federal Republic;

(8) Remuneration for members of statutory organs and other organs of legal entities.

2) For purposes of this law, a permanent operating facility is understood to be a facility at which taxpayers who have a seat or domicile abroad, but which is located on the territory of the Czech and Slovak Federal Republic, carry out their activities; in particular, these are building sites, workshops, offices, facilities designed to extract natural resources, disposal sites (other than those involved in sales). Construction sites, construction and assembly work, including repair work, are considered to be a permanent operating facility only if they exist for longer than six months (without regard to the taxation period). The period of duration of a permanent operating facility is expressed in calendar days, provided it is not discontinued for a period longer than 12 calendar months in succession.

3) Income according to Paragraph 1 is also understood to be any nonmonetary performance accepted by the taxpayer.

### Section 23. Tax Base

1) The tax base is the difference between incomes, with the exception of incomes exempt from tax (Sections 4 and 19) and expenditures (costs) involved in the acquisition, assurance, and preservation of such incomes (Section 24), taking into account their substantive and timely connection within a given tax period, adjusted in accordance with Paragraphs 2 through 4.

2) For taxpayers who do double-entry bookkeeping,<sup>17</sup> the tax base is the economic result (profit or loss), and for taxpayers who do single-entry bookkeeping<sup>17</sup> the tax base is the difference between incomes and expenditures.

3) The economic result or the difference between income and expenditures according to Paragraph 2 above is adjusted by the amount which it is not possible, according to this law, to include under expenditures (costs) or an amount which includes these costs or expenditures at an incorrect level and by all amounts which illegally lower the income. To the extent to which the scope of some types of expenditures (costs) is restricted or limited by this law or by special regulations,<sup>18</sup> they can, for purposes of determining the tax base, be included under the expenditures (costs) only to the extent of the maximum stipulated and documentable amount.

4) The tax base according to Paragraph 1 does not include:

a) Incomes which are taxed at a special rate (Section 36), with the exception of the income of investment corporations establishing share funds;

b) Incomes based on issuance premiums;

c) Incomes based on the purchase of the organization's own securities below the nominal value;

d) Amounts which have already been taxed with respect to the same taxpayer according to this law.

5) In the case of limited partnerships, the tax base as defined in the previous paragraphs is further reduced by the amount to which the general partners are entitled.

6) Income is considered to be both monetary and also nonmonetary performance, valorized in terms of prices which are customary at the place and at the time of performance or consumption, depending on the type, quality, or degree of wear and tear pertaining to substantive performance (hereinafter referred to as the "prices which are customary on the market"), with the exception of in-kind consumption of one's own production services.

7) If the agreed-upon prices differ from prices which are customary on the market and if this difference is not satisfactorily documented, then prices which are customary on the market are used for purposes of taxation. This provision is used always when the same legal entities or individuals participate directly or indirectly

in managing, controlling, or in the wealth of an enterprise under contractual conditions. In the case of the sale of real property, a deviation downward will be judged in this manner if it exceeds one-third of the value of the real property, determined in accordance with special regulations or by a court expert.

8) In the case of taxpayers undergoing disestablishment connected with liquidation, the tax base according to the previous paragraphs, the tax base for the taxation period for the time preceding the day liquidation or disestablishment was initiated, is adjusted by concluding the remainder of the creative reserves, proceeds of the subsequent periods, by the expenditures of the subsequent periods, and by the costs involved in the subsequent period and for taxpayers who do single-entry bookkeeping, the adjustment involves the price of unconsumed supplies and the amount of claims and obligations which exist.

9) For purposes of determining the tax base, the starting point is the type of accountancy carried on in accordance with special regulations<sup>18</sup> insofar as special regulations or this law do not specify otherwise or insofar as there is no abridgment of the tax obligation by another method.

### Section 24.

#### Expenditures (Costs) Involved in the Acquisition, Assurance, and Preservation of Income

1) For purposes of determining the tax base, the expenditures (costs) involved in acquiring, assuring, and preserving taxable incomes are deducted at the level documented by the taxpayer and at the level stipulated by this law and by special regulations.<sup>18</sup>

2) The following are also considered to be expenditures (costs) according to Paragraph 1:

a) Depreciation of material and nonmaterial property (Sections 26 through 33);

b) Remainder price (Section 29, Paragraph 2) of material property and nonmaterial property only to the level of income based on its sale or up to the level of compensation included in the tax base, with the exception of that amount listed under Letter c);

c) Remainder price (Section 29, Paragraph 2) of permanent crops raised by breeders and animals, in accordance with the attachment to this law, at the time of their elimination;

d) Contributions made to legal entities, where this obligation is based on the requirements of law;

e) Insurance premiums paid by the taxpayer, as long as they are connected with the income which is subject to tax;

f) Insurance premiums paid by an employer according to special regulations<sup>19</sup> and expenditures for social payments made in lieu of compulsory insurance premiums;



g) Expenditures (costs) incurred in the operation of a taxpayer facility for the protection of the environment according to special regulations;<sup>20</sup>

h) Rentals, including rentals for items with the right to purchase such items;

i) Paid real estate taxes, highway taxes, as well as other taxes, with the exception of those listed under Section 25 and fees having to do with activities where income from such activities is subject to tax;

j) Reserves, the method of whose formation and magnitude for tax purposes is stipulated by special law;

k) Expenditures (costs) incurred for working and social conditions and health care, for the following purposes:

(1) The safety and protection of health in work and hygienic equipment for the work site;

(2) The operation of enterprise health facilities and health care for employees, to the extent stipulated by special regulations;<sup>21</sup>

(3) The operation of specialized midlevel training centers and educational facilities, provided that these costs are not the responsibility of the appropriate organ of the state administration or expenses for the education and training and requalification of students and workers which are covered by other entities;

(4) The operation of indigenous facilities for enterprise catering, apart from the value of the food involved or contributions for enterprise catering taken care of by other entities and provided up to a level of 55 percent of the price of main and snack type meals;

l) Expenditures (costs) for official travel up to the maximum level identified in special regulations,<sup>22</sup> including:

(1) The costs of housing, transportation via mass transport media, and necessary expenditures connected with official travel at a documented level;

(2) The costs of transportation by motor vehicle, included in the property listing of the taxpayer at a compensation level equal to the consumed motor fuels;

(3) For transportation by motor vehicle not listed as taxpayer property at a level of the basic rate and in compensation for consumed motor fuels;

(4) Per diem and pocket money in the case of foreign official travel;

(5) Per diem involved in domestic official travel, but only for employees according to Section 6;

m) Damage resulting as a consequence of natural disasters;

n) Expenditures (costs) of civil defense connected with preparation for self-protection and mutual assistance and with care for individual protection devices;

o) Expenditures (costs) to assure fire protection;<sup>23</sup>

p) Expenditures (costs) connected with preserving production capabilities to secure the defense capabilities of the state.<sup>24</sup>

3) In the case of taxpayers for whom only income from business activities or other specified activities is taxable, expenditures (costs) are recognized to be only those costs expended in the acquisition, assurance, and preservation of incomes which are subject to tax.

4) Any rental involved in negotiating the right to purchase a rented item is considered to be part of the expenditures (costs), provided that

a) The rental period is longer than 40 percent of the stipulated depreciation time listed in Section 30, but runs for a minimum of three years, and;

b) The purchase price for the rented item is not higher than the remainder price which the item would have when depreciated according to this law.

5) In the event a rented item is being sold to the renter, having been the object of a rental agreement, upon the conclusion of that agreement, in cases other than those listed in Paragraph 4, the rental amount is considered to be an expenditure (cost) only provided the purchase price is not lower than the remainder price which the item would have if depreciated according to this law.

#### Section 25

1) The following types of expenditures (costs) cannot be recognized as having been made in the acquisition, assurance, and preservation of incomes for tax purposes:

a) Expenditures (costs) involved in the acquisition of material property and nonmaterial property (Section 26);

b) Expenditures made to increase basic worth, including paying off of loans;

c) Expenditures for the purchase of securities;

d) Remuneration for members of statutory organs and other organs of legal entities;

e) Paid-out profit shares;

f) Paid penalties and fines, with the exception of contractual fines;

g) Surcharges on basic fees charged for polluting the atmosphere;<sup>25</sup>

h) Surcharges on basic fees charged for releasing wastewater;<sup>26</sup>

i) Expenditures (costs) involved in tax-exempt incomes or income not included in the tax base;

j) Expenditures in excess of the limit stipulated by this law or by special regulations;<sup>21, 22</sup>

k) Expenditures which exceed revenue in establishments intended to satisfy the needs of employees or of other persons, with the exception of those listed in Section 24, Paragraph 2, Letter j);

l) Creation of reserve and other special-purpose funds where special regulations do not stipulate otherwise;

m) Deposits to basic capitalization and the purchase of shares in basic capitalization of corporations or cooperatives;

n) Deficits and damages in excess of accepted compensation, with the exception of those listed in Section 24;

o) Remainder price of a permanently sidelined item of material property and nonmaterial property, with the exception as listed in Section 24, Paragraph 2, Letters b) and c);

p) Technical value improvement (Section 33);

q) Taxes paid for another taxpayer;

r) Inheritance taxes, gift taxes, taxes on the transfer of real estate, individual income taxes, and the tax on incomes of legal entities;

s) Representational expenditures;

t) Expenditures made on behalf of the taxpayer's personal requirements;

u) Fees paid to investment corporations for the administration of a share fund.<sup>14</sup>

#### Section 26.

##### Depreciation of Material and Nonmaterial Property

1) For purposes of this law, depreciation is governed by Section 31 or Section 32 for material property as well as for nonmaterial property, with the exception listed in Section 27.

2) For purposes of this law, material property is understood to be independent movable items, the entry price of which (Section 29, Paragraph 1) is higher than Kcs10,000 and which have operational-technical functions in excess of one year, buildings and structures, permanent crops<sup>27</sup> with a fertility period which is longer than three years, basic herds,<sup>17</sup> draft animals, breeding and race horses, and other property.

3) For purposes of this law, other property is understood to be technical valorization, expenditures involved in the opening of new quarries, sand pits, clay pits, and technical reclamation work, as long as these expenditures do not increase the entry and remainder price of material property.

4) For purposes of this law, nonmaterial property includes items based on industrial patents, designs and program material, and other rendered technical or other economically usable knowledge, the entry price of which is higher than Kcs20,000 and which are acquired for a

fee or which are part of the taxpayer's overhead expenses, and the appropriate organizational costs.<sup>17</sup>

5) For purposes of this law, depreciation is considered to be the inclusion of write-offs based on material and nonmaterial property which pertain to the assurance of taxable income under the expenditures (costs) involved in assuring this income.

#### Section 27. Assets Exempt From Depreciation

1) The following are exempt from depreciation:

a) Supplies;

b) Permanent crops with a fertility period which is longer than three years and which have not yet reached fruit-bearing age;

c) Water reclamation projects for two years following their termination;

d) Facilities designed to dam and regulate swift-flowing streams and forestry-technical reclamation work;

e) Artistic works<sup>28</sup> which are not part of a structure or building, items of gallery and museum value, or sets of these items in museum and memorial facilities, permanent exhibits, and collections of books in libraries of the unified library system or other collections;

f) Movable and immovable cultural memorials and their sets which can, as a rule, not be valued according to valid legal regulations;

g) Surface and underground water, forests, deposits of mineral raw materials and minerals, caves, surveyor's marks, signals, and other facilities involved in selected geodetic points and printed documentation for state maps.

#### Section 28

1) Assets and nonmaterial property is depreciated by the owner with the exceptions listed in Paragraphs 2 to 4.

2) Rented assets and nonmaterial property can be depreciated by the renter, on the basis of a written agreement with the owner, for the duration of the rental agreement, provided that the agreement covers both movable and real assets utilized by the renter to assure income for the entire taxation period as a whole.

3) The renter may depreciate any technical valorization of the rented assets he pays for, on the basis of a written agreement, provided the entry price of the asset is not increased by the amount of these expenditures by the owner of the asset. In depreciating technical valorization, the renter shall proceed in accordance with the method stipulated for assets and shall categorize the technical valorization into the depreciation group in which the rented asset is classified.

4) Assets and nonmaterial property which are jointly owned and which are not depreciated by the renter

according to Paragraph 2 above are depreciated by one of the co-owners, on the basis of a written agreement, using the entry price of this property as a whole, or depreciation is accomplished by the co-owners in such a manner that the entry price of the depreciated portion is determined in relation to the entry price of the asset and nonmaterial property as a whole in accordance with the proportional ownership rights.

5) In depreciating assets and nonmaterial property which are only partially used in the acquisition of taxable income, the expenditures made in the acquisition of taxable income may include only a relative portion of the depreciation.

### Section 29

1) The entry price of an asset and of nonmaterial property is understood to be the following:

a) Acquisition price<sup>29</sup> where the asset is acquired in return for payment, with the exception of property acquired according to Law No. 427/1990 Sb. [collection of laws] on transfers of ownership by the state to other legal entities or individuals of some items, as modified in subsequent regulations;

b) Production costs,<sup>29</sup> if the asset is acquired or produced as part of the taxpayer's overhead expenses;

c) Reproduction acquisition price,<sup>29</sup> which is determined in accordance with special regulations or by an expert court witness in other cases.

2) For purposes of this law, the remainder price is considered to be the difference between the entry price of an asset and an item of nonmaterial property and the total amount of depreciation included under the expenditures made in the acquisition of taxable income (Section 24, Paragraph 2, Letter a)).

Depreciation Group	Annual Depreciation Rate		
	During First Year of Depreciation	During Subsequent Years of Depreciation	Applicable to Increased Entry Price
1	14.2	28.6	25.0
2	6.2	13.4	12.5
3	3.4	6.9	6.7
4	1.4	3.4	3.4
5	1.0	2.0	2.0

2) In the case of uniform depreciation, the depreciation of assets and nonmaterial property items is set, for a given taxation period, at the level of the product of the entry price and the appropriately assigned annual depreciation rate, divided by 100.

3) In the event of uniform depreciation involving an increased entry price for an asset, the depreciation for this asset for a given taxation period is set at the level of the product of its increased entry price and the assigned

3) If any technical valorization is not independently depreciated by the renter, it increases the entry price of the asset as of the beginning of the following taxation period (hereinafter referred to as the "increased entry price") and also increases the remainder price (hereinafter referred to as "increased remainder price") of the appropriate asset.

### Section 30

1) In the first year of depreciating an asset and nonmaterial property, the taxpayer shall categorize assets and nonmaterial property into depreciation groups listed in the attachment, which is an inseparable part of this law. The depreciation periods are listed as follows:

Depreciation Group	Depreciation Time
1	4 years
2	8 years
3	15 years
4	30 years
5	50 years

2) A taxpayer shall depreciate assets uniformly (Section 31) or in an accelerated manner (Section 32). The owner of the asset shall determine the method of depreciation for each newly acquired asset or item of nonmaterial property and this method cannot be changed for the entire duration of its depreciation.

3) Assets and nonmaterial property are depreciated, at a maximum, up to the entry price or their increased entry price.

### Section 31

1) In the case of uniform depreciation of assets and nonmaterial property, the following annual depreciation rates are assigned to the depreciation groups listed:

annual depreciation rate valid for the increased entry price, divided by 100.

4) Depreciation computed in accordance with Paragraphs 2 and 3 is rounded off to whole korunas upward.

### Section 32

1) In the event of accelerated depreciation of an asset and nonmaterial property, the following coefficients for accelerated depreciation are assigned to the various depreciation groups:

Depreciation Group	Coefficient For Accelerated Depreciation		
	During First Year of Depreciation	During Subsequent Years of Depreciation	Applicable to Increased Remainder Price
1	4	5	4
2	8	9	8
3	15	16	15
4	30	31	30
5	50	51	50

2) In the case of accelerated depreciation, the depreciation of assets and nonmaterial property is handled as follows:

a) In the first year of depreciation, as a share of its entry price and the assigned coefficient for accelerated depreciation valid for the first year of depreciation;

b) In subsequent taxation periods, as a share of double its remainder price and the difference between the coefficient for accelerated depreciation valid in subsequent depreciation years and the number of years for which the asset has already been depreciated.

3) In the case of accelerated depreciation of assets whose value has been increased by their technical valorization, depreciation is handled as follows:

a) In the year in which the remainder price has been increased, as a share of double this price for the asset and the assigned coefficient for accelerated depreciation valid for the increased remainder price;

b) In subsequent taxation periods, as a share of double the remainder price for the asset and the difference between the assigned coefficient for accelerated depreciation valid for the increased remainder price and the number of years for which this asset has already been depreciated on the basis of its increased remainder price.

4) Depreciation as outlined in Paragraphs 2 and 3 is rounded off to whole korunas upward.

### Section 33

1) For purposes of this law, technical valorization is understood to include expenditures made to complete superstructures, additions, and building modifications,<sup>30</sup> reconstruction, and modernization of assets.

2) For purposes of this law, reconstruction is interpreted as incursions made into the asset which result in changing its purpose or its technical parameters.

3) For purposes of this law, modernization is understood to be an expansion of the facilities or utility of an asset.

### Section 34.

#### Amounts Deductible From the Tax Base

1) The tax base can be reduced by the deduction of losses which have been incurred in the preceding taxation period, and which can be carried over for a maximum of

five subsequent taxation periods. This provision may be used for the first time with respect to losses incurred in the taxation period of 1993.

2) For purposes of determining losses which may be deducted according to Paragraph 1 above, the provisions of Sections 23 through 33 apply. The provisions of Section 20, Paragraph 4, are disregarded.

3) A tax exemption negates the possibility to deduct losses according to Paragraph 1 above.

### Section 35. Tax Reduction

1) Taxpayers listed in Sections 2 and 17 have their tax reduced by the following amounts:

a) Kcs5,000 for each employee whose working ability has been impaired;<sup>31</sup>

b) Kcs15,000 for each employee whose working ability has been impaired and who has serious health problems.<sup>31</sup>

2) For purposes of computing tax reduction as outlined in Paragraph 1 above, the average recomputed number of workers whose working capability has been impaired and the number of workers suffering serious health problems in the given taxation period is decisive (rounded off to whole numbers downward).

### Section 36. Special Tax Rate

1) The special tax rate applicable to incomes based on sources on the territory of the Czech and Slovak Federal Republic for taxpayers listed in Section 2, Paragraph 3, and Section 17, Paragraph 5, with the exception of permanent operating facilities (Section 22, Paragraph 2) amounts to the following:

a) 25 percent on incomes listed in Section 22, Paragraph 1, Letter d), Points 1 through 3, with the exception listed in Paragraph 2, Letter d);

b) 25 percent on rentals, with the exception listed under Letter c);

c) 1 percent of the rental when negotiating the right to purchase a rented item.

2) The special tax rate on incomes based on sources on the territory of the Czech and Slovak Federal Republic for taxpayers listed in Sections 2 and 17 is as follows:

a) 25 percent on the share in profits (dividends), on interest and other emoluments based on securities, with the exceptions listed under Letter c), on participation in corporations having limited liability, on participation in limited partnerships, on the shares in the profit and similar performance based on membership in cooperatives, on the shares in the profit of silent partners, and on participation in business activities, on settlement segments in the event of termination of participation by a partner in a commercial corporation or of the membership in a cooperative, on the shares in the liquidation remainder in the event a commercial corporation or a cooperative go into liquidation;

b) 20 percent on prizes in public contests and sporting competitions (Section 10, Paragraph 8), on the remuneration for members of statutory organs and other organs of legal entities (Section 6, Paragraph 5);

c) 15 percent on incomes listed in Section 8, Paragraph 1, Letters c) and d), and in Section 10, Paragraph 7;

d) 10 percent on incomes of authors for making contributions to newspapers, periodicals, radio or television programs (Section 7, Paragraph 6), and on incomes based on legal relationships in accordance with Section 6, Paragraph 4.

3) The tax base for the special tax rate, which is made up of incomes listed in Paragraphs 1 and 2 above, is only considered to be income as long as this law does not stipulate otherwise. The tax base is rounded off to whole korunas downward.

4) To the extent to which a recipient receives the proceeds of the sale of securities from investment corporations or investment funds,<sup>14</sup> the tax base for the special tax rate listed in Paragraph 2, Letter a), above is the amount of proceeds from the sale of securities, minus the income accepted by investment corporations and investment funds, on which tax has already been collected under a special rate in accordance with Paragraph 2, Letter a).

#### Section 37

The provisions of this law are applied only to the extent to which an international agreement to which the Czech and Slovak Federal Republic is a party does not stipulate otherwise.

#### Section 38

1) For tax purposes, the following rates of the foreign exchange market, as published by the State Bank of Czechoslovakia (foreign exchange, foreign currency), are applicable:

a) For taxpayers who have an obligation to offer their foreign exchange for sale<sup>33</sup>—the “buy” or “sell” rate at the moment of settlement with the bank;

b) For taxpayers who are not obligated to offer their foreign exchange for sale<sup>33</sup>—the “median” rate published by the State Bank of Czechoslovakia on the last day of the preceding month.

#### Section 39. Extent of Possible Deviations in the Interpretation of Taxes

1) The laws of the national councils can provide for deviations from the provisions of this law as follows:

a) They may increase the tax rate listed in Sections 16 through 21 by as much as five points;

b) They may identify a group of taxpayers for whom the tax base according to Section 7 can be the average gain determined by the tax administrator on the basis of economic experiences, following negotiations with the taxpayer;

c) They may raise or lower the percentage rate of expenditures listed in Section 7, Paragraph 7, and Section 9, Paragraph 3, by as much as 10 points;

d) They may lower the tax rate listed in Sections 16 and 21 by as much as one-half for taxpayers for whom the number of employees whose work capability has been impaired amounts to more than 60 percent of the average number of workers;

e) They may increase payments by as much as one-half of the tax reductions listed in Section 35.

#### Section 40

1) The Federal Ministry of Finance may:

a) In relation to foreign countries, make provisions to assure mutuality or take retaliatory measures for purposes of mutually balanced taxation;

b) Make provisions to eliminate hardships and inconsistencies and decide on the method of taxation in controversial cases where entities have their seat or domicile abroad and where taxpayers within the jurisdiction of the Federation are involved.

### PART FOUR TRANSITORY AND FINAL PROVISIONS

#### Section 41

1) For purposes of meeting the tax obligations for 1992 and for previous years and in the taxation of wages accounted for through December 1992, inclusively, use is made of existing regulations.

2) For purposes of levying individual income tax, the tax base is also reduced by the appropriate amount of losses based on business activity and other money-earning activities according to Section 28, Paragraph 5, of Law No. 389/1990 Sb. on taxing the incomes of the population.



3) The exemption of income derived from the operation of small hydroelectric power plants, wind-operated electric power plants, solar and geothermal energy sources, and facilities to produce biogas from the taxing of incomes of the population, as outlined in legal modifications valid prior to the effective date of this law, remains in effect until the expiration of the time limit for which these incomes are exempt.

4) The provisions of Section 36, Paragraph 2, Letter c), are not invoked with respect to the proportional amount of interest and other proceeds from deposits in savings books, savings lists, and similar deposits, including deposit accounts, which accrue to these deposits through 31 December 1992.

5) Law No. 389/1990 Sb. on taxing the incomes of the population continues to be applied even after the effective date of this law for purposes of deferring tax payments according to Section 28, Paragraph 7, of Law No. 389/1990 Sb. and for purposes of depreciating basic assets which were already being depreciated according to Section 28, Paragraph 4, of Law No. 389/1990 Sb. by the taxpayer prior to the effective date of this law. Upon the expiration of two years from the end of the year in which this depreciation was first used, the procedure outlined in Paragraph 7, Letter d), is applicable.

6) The exemptions, reductions, and exceptions granted according to Section 22, Paragraph 3, of Law No. 76/1952 Sb. on the tax on wages, as subsequently modified, according to Section 16, Paragraph 2, of Law No. 36/1965 Sb. on taxing incomes based on literary and artistic activities, as subsequently modified, and according to Section 27 of Law No. 389/1990 Sb. on taxing the incomes of the population become null and void on the day this law becomes effective.

7) For the taxation period of 1993, the following procedures are adopted in making the transition to depreciating assets and nonmaterial property according to this law:

a) Assets and nonmaterial property are classified into depreciation groups according to the attachment to this law;

b) In the case of uniform depreciation, the entry price (Section 29) is understood to be the price which was subject to depreciation prior to 1 January 1993 according to special regulations;<sup>34</sup>

c) In the case of accelerated depreciation, the entry price (Section 29) is understood to be the remainder price (Section 29) as of 31 December 1991;

d) In the case of assets which have already been depreciated as of 31 December 1992, the procedure after 1993 in computing depreciation involves data in the column entitled "During Subsequent Years of Depreciation" in the table listed in Section 31, Paragraph 1, or Section 32, Paragraph 1.

8) In the case of contracts involving the right to purchase a rented item prior to 1 January 1993, depreciation makes use of Decree No. 586/1990 Sb. on capital depreciation until such time as the validity of the listed rental agreements expires.

9) For purposes of depreciating the difference between the upset price and the price achieved at auction, the communication issued by the Federal Ministry of Finance<sup>35</sup> is applied until the termination of depreciation—even after the effective date of this law.

#### Section 42. Rescinding Provisions

1) The following are rescinded:

Law No. 761/1952 Sb. on the wage tax, as modified by Government Regulation No. 43/1953 Sb., Government Regulation No. 112/1953 Sb., Law No. 71/1957 Sb., Law No. 101/1964 Sb., Law No. 90/1988 Sb., and Law No. 578/1991 Sb.

Section 8 of Law No. 88/1952 Sb. on material security for members of the armed forces.

Law No. 36/1965 Sb. on taxing incomes from literary and artistic activity, as modified by Law No. 160/1968 Sb. and Law No. 578/1991 Sb.

Section 51 of Law No. 100/1970 Sb. on the service relationship of members of the Corps of National Security (SNB).

Law No. 172/1988 Sb. on the agricultural tax, as modified by Law No. 157/1989 Sb., Law No. 574/1990 Sb., and Law No. 578/1991 Sb.

Law No. 156/1989 Sb. on payments to the state budget, as modified by Law No. 574/1990 Sb. and Law No. 578/1991 Sb.

Law No. 157/1989 Sb. on the income tax, as modified by Law No. 108/1990 Sb., Law No. 574/1990 Sb., and Law No. 578/1991 Sb.

Law No. 389/1990 Sb. on taxing the income of the population, as modified by Law No. 578/1991 Sb.

Czech Socialist Republic Regulation No. 207/1989 Sb. on payments based on profit on the basis of the financial plan.

Czech Republic Government Regulation No. 554/1991 Sb. on exempting certain incomes from the tax on the income of the population and on tax reductions for beginning independent farmers.

Notice No. 161/1976 Sb. by the Federal Ministry of Finance, the Ministry of Finance of the Czech Socialist Republic, and the Ministry of Finance of the Slovak Socialist Republic, which implements the law on the wage tax, as modified by Notice No. 14/1982 Sb., Notice No. 86/1984 Sb., Notice No. 311/1990 Sb., Notice No. 72/1991 Sb., Law No. 578/1991 Sb., and Notice No. 49/1992 Sb.

Ministry of Finance Notice No. 184/1988 Sb. on implementing the law on taxing incomes on literary and artistic activity, as modified by Notice No. 151/1980 Sb., Notice No. 14/1982 Sb., Notice No. 86/1984 Sb., and Notice No. 7/1991 Sb.

Federal Ministry of Finance Notice No. 215/1988 Sb., which implements the law on the agricultural tax, as modified by Notice No. 559/1990 Sb.

Federal Ministry of Finance Notice No. 192/1989 Sb., which implements the law on payments to the state budget.

Federal Ministry of Finance Notice No. 183/1989 Sb., which implements the law on the income tax, as modified by Notice No. 214/1990 Sb.

Federal Ministry of Finance Notice No. 211/1989 Sb. on the financing of selected social facilities and some activities.

Federal Ministry of Finance Notice No. 586/1990 Sb. on depreciating basic assets, as modified by Notice No. 345/1991 Sb.

Czech Socialist Republic Ministry of Finance Decree No. 153/33 337/71 on the submission of proof of claims for tax reduction for dependent persons in the case of the tax on incomes on literary and artistic activities and the forgiveness of missed deadlines, recorded in Part 1/1972 Sb.

Czech Socialist Republic Ministry of Finance Decree No. 15/20 148/1972, which issues the regulation entitled "3-Percent Tax on Income Derived From Literary and Artistic Activities—Procedure Involved in Submitting Certification," in Part 26/1972 Sb.

Czech Socialist Republic Ministry of Finance Decree No. 153/15 101/1974 on the tax on incomes derived from literary and artistic activities in the case of annual incomes of less than Kcs25,000, recorded in Part 14/1974 Sb.

Czech Socialist Republic Ministry of Finance Decree No. 153/25 508/1974 on the procedure involved in submitting certification regarding the 3-percent tax on incomes based on literary and artistic activities, as recorded in Part 3/1975 Sb.

Federal Ministry of Finance Decree No. VI/1-7 718/1976 on the exceptional recognition of individuals whose incomes were increased according to Law No. 121/1975 Sb. on social security for persons being supported for purposes of the wage tax, recorded in Part 10/1976 Sb.

Federal Ministry of Finance Decree No. VI/1-2 017/77 on taxing wages paid by entities located abroad for work performed in the CSFR to persons who sojourn in this country only on a temporary basis, recorded in Part 9/1977 Sb.

Federal Ministry of Finance Decree No. VI/1-27 087/77 on evaluating the economic support granted to students involved in cyclical studies at middle schools for workers when it comes to the wage tax, recorded in Part 1/1978 Sb.

Federal Ministry of Finance Decree No. VI/1-8 762/78 "Remuneration Involved in Granting Prizes for Scientific, Technical, Artistic, Publications, and Other Activity—Tax on Wages," recorded in Part 15/1978 Sb.

Federal Ministry of Finance Decree No. VI/1-26 711/1978 on taxing recruiting bonuses paid to workers in conjunction with the performance of rationalization and organizational measures, recorded in Part 5/1979 Sb.

Federal Ministry of Finance Decree No. VI/1-4 537/79 "Tax Consideration of the Value of Room and Board Made Available to Employees of Pioneer Camps," recorded in Part 11/1979 Sb.

Federal Ministry of Finance Decree No. VI/1-421/1981 on taxing retirement pay for miners, recorded in Part 10/1981 Sb.

Federal Ministry of Finance Decree No. VI/1-584/1982 on raising the limits of one's income as a result of a claim that persons are being maintained in accordance with the decree on the exceptional recognition of persons whose incomes have risen according to Law No. 121/1975 Sb. on social security for persons being supported for purposes of the wage tax, recorded in Part 8/1982 Sb.

Federal Ministry of Finance Decree No. VI/1-12 836/1982 on tax relief applicable to the wages of major children who have become total invalids prior to the time of attaining the age which is decisive for termination of obligatory school attendance, recorded in Part 3/1983 Sb.

Federal Ministry of Finance Decree No. VI/1-13 318/82 on taxing the remuneration for photographic work conducted on the basis of agreements regarding work performed outside of the working relationship, recorded in Part 3/1983 Sb.

Federal Ministry of Finance Decree No. V/1-3 776/83 on taxing retirement pay for miners, recorded in Part 14/1983 Sb.

Federal Ministry of Finance Decree No. V/1-21 317/84 on the exceptional recognition of widows of participants in the resistance and of parents of participants in the resistance whose incomes were increased in accordance with Law No. 108/1984 Sb. on raising some low pensions and on other changes in social security applicable to people being maintained for purposes of the tax on wages, recorded in Part 3/1985 Sb.

Federal Ministry of Finance Decree No. V/1-21 171/84 on the tax evaluation of foreign nationals employed in Czechoslovak organizations on the basis of intergovernmental agreements, recorded in Part 4/1985 Sb.

Federal Ministry of Finance Decree No. V/1-1 895/85 on tax consideration of contributions as compensation for using cooperative apartments, made available to employees of agricultural organizations, recorded in Part 8/1985 Sb.

Federal Ministry of Finance Decree No. V/1-13 669/85 on taxing remuneration for the removal and collection of biological materials from the human organism for the production of serums, immunization materials, and medications and for the removal of organs for transplantation, recorded in Part 26/1985 Sb.

The provisions of Section 7, Paragraph 8, of Federal Ministry of Finance Decree No. III/3-10 780/88 and Czech Socialist Republic Ministry of Finance Decree No. 122/11 735/88 on contributions to compensate for the use of cooperative apartments in a specified territory in the proximity of the western border of the Czechoslovak Socialist Republic, recorded in Part 16/1986 Sb.

Federal Ministry of Finance Decree No. VI/1-7 393/87, dated 15 May 1987, on forgiving the consequences of a late submission of proof regarding the number of dependent persons for purposes of the wage tax, recorded in Part 16/1987 Sb.

Federal Ministry of Finance Decree No. VI/1-5 614/88, dated 29 April 1988, on the tax consideration of foreign nationals in Czechoslovak organizations, recorded in Part 12/1988 Sb.

ATTACHMENT TO LAW NO. /1922 Sb.

Federal Ministry of Finance Decree No. II/4-19 752/88, dated 8 December 1988, which exempts material payments made to employees in the area of civil defense and defense training from the wage tax, recorded in Part 47/1988 Sb.

Federal Ministry of Finance Decree No. II/4-22 067/89, dated 29 December 1989, on the tax consideration of travel expenditures for expert witnesses for providing expert opinions regarding the price of construction projects, land parcels, permanent stands of trees, and compensation for arranging the right of personal use for land parcels, recorded in Part 40/1969 Sb.

Federal Ministry of Finance Decree No. II/1-18 038/1989, Czech Socialist Republic Ministry of Finance Prices and Wages Decree No. 152/16 309/1989, and Slovak Socialist Republic Ministry of Finance Prices and Wages Decree No. 71/1 644/1989 on outlining the authorizations of financial administrations and national committees to grant reductions in the agricultural tax and in appropriate penalties, recorded in Part 36/1989 Sb.

Federal Ministry of Finance Decree No. II/1-18 795/89, Czech Republic Ministry of Finance Decree No. 152/23 286/89, and Slovak Republic Ministry of Finance Decree No. 72/2 220/89 on outlining the authorizations of financial directorates and national committees to grant relief from making payments on profits, the income tax, and penalties, recorded in Part 40/1989 Sb.

#### Section 43. Effective Date

This law becomes effective 1 January 1993.

#### Classification of Assets and Nonmaterial Property by Depreciation Groups According to the Anticipated Duration of the Depreciation

Item	Depreciation Group
1) Buildings and production shops (Class 1) <sup>1</sup>	5
Including:	
Buildings and production shops made of wood and light materials	4
2) Structures (Class 2)	5
Including:	
a) Towers, masts, and smokestacks (Sector 813)	4
b) Superstructure of railroads and other railways (Sector 824 2)	4
c) Long-distance electric conduit and overhead lines (Sector 827)	4
3) Electric motor and drive engines and installations (Class 3)	4
Including:	
a) Portable and mobile machines and facilities	3
b) Electrochemical power sources (Sector 348)	2
4) Working machines and installations (Class 4)	2
Including:	
a) Mechanized hand tools (Sector 414)	1
b) Machines for cultivation, fertilization, and protection of plants (Sector 536 3)	1
c) Deep mining extraction installations (Sector 493)	3
d) Bucket excavators and overburden dumping machines (Sector 495)	3

**Classification of Assets and Nonmaterial Property by Depreciation Groups  
According to the Anticipated Duration of the Depreciation (Continued)**

Item	Depreciation Group
e) Machines and facilities for preparation of blast-furnace charges and for production of pig iron (Sector 498)	3
f) Machines and installations for coking purposes (Sector 499)	3
g) Machines and installations for steel mills (Sector 501)	3
h) Rolling mills (Sector 502)	3
ch) Storage facilities for stable gases (gas tanks) with changeable contents (within framework of Sector 506)	3
i) Machines and installations for processing of gaseous fuels (within framework of Sector 507)	3
j) Machines and installations for production and processing of cellulose, paper, and cardboard (Sector 508)	3
k) Industrial fuel furnaces, excluding ceramic furnaces and glass-making furnaces (Sector 434)	3
5) Tools and special technical devices (Class 5)	2
Including:	
Safety and warning devices (Sector 404)	3
6) Transport media (Class 6)	3
Including:	
a) Personal automobiles and delivery vehicles (Sector 444)	1
b) Cargo trucks and their special-purpose modifications (Sector 445)	2
c) Buses (Sector 447)	2
d) Single-track motor vehicles, their utility modifications, and trailers (Sector 451)	2
e) Industrial transport trucks (Sector 475)	2
f) Wheeled and tracked tractors (Sector 531)	2
g) Small transport media (Sector 543)	2
h) Wheeled mine carts and narrow-gauge trucks (Sector 459 6)	1
i) Aircraft (Sector 485)	2
j) Aircraft equipment (Sector 466)	2
k) Construction cranes (Sector 468 2)	2
l) Transport facilities for movement of piece goods (Sector 476)	2
7) Inventory (Class 7)	2
8) Breeder's units of permanent crops (Class 9)	3
9) Livestock	2
Including:	
a) Breeding and race horses (Sector 0342, Sector 034 34)	3
b) Draft animals (Sector 034 32, Sector 031 332)	3
c) Basic hog herd (Sector 032)	1
d) Basic poultry flock (Sector 041 33)	1
10) Nonmaterial property	2
Including:	
Computer programs and know-how or similar experiences	1
Patents	3
11) Repair components for property acquired for a fee <sup>14</sup>	3

**Classification of Assets and Nonmaterial Property by Depreciation Groups  
According to the Anticipated Duration of the Depreciation (Continued)**

Item	Depreciation Group
12) The opening of new quarries, sand pits, clay pits, and technical recultivation, provided these are not part of the assets whose entry price includes such openings, are classified in depreciation group 3.	
13) Temporary structures <sup>2</sup> are depreciated on a straight-line basis, using depreciation rate applicable to the increased entry price. For purposes of classifying these structures into depreciation groups, the decisive factor is the duration of the construction project, established by the responsible organ.	
14) Assets and nonmaterial property which cannot be classified in accordance with Paragraphs 1 through 12 above are categorized in group 3 for purposes of depreciation.	

*Note 1. In classifying assets into classes or sectors, proceed in accordance with Federal Statistical Office Notice No. 85/1976 Sb. on the uniform classification of basic assets, as modified by subsequent regulations.*

*Note 2. Law No. 50/1976 Sb. on territorial planning and the Building Code (the building law), as modified by subsequent regulations and by regulations which implement that law.*

**Footnotes**

1. Law No. 92/1991 Sb. on conditions for the transfer of property owned by the state to other individuals, as modified by subsequent regulations.

2. Law No. 403/1990 Sb. on mitigating the consequences of certain property injustices; Law No. 119/1990 Sb. on court rehabilitation; Law No. 87/1991 Sb. on extrajudicial rehabilitation; Law No. 229/1991 Sb. on the regulation of ownership relationships with respect to land and other agricultural property; Slovak National Council Law No. 319/1991 Sb. on mitigating certain property injustices, including those committed under the jurisdiction of organs of the state administration of the Slovak Republic in the area of extrajudicial rehabilitation; Law No. 42/1992 Sb. on the regulation of property relationships and the settlement of property claims in cooperatives.

3. Law No. /199 [as published] Sb. on the army of the CSFR.

4. Law No. /1992 Sb. on the civil service.

5. Law No. /1992 Sb. on the reimbursement of travel expenses.

6. Section 12a of Law No. 105/1990 Sb. on private business engaged in by citizens, as modified by Law No. 219/1991 Sb.

7. Law No. 455/1991 Sb. on small business.

8. Law No. 527/1990 Sb. on inventions, industrial samples, and improvement suggestions; Law No. 35/1965 Sb. on literary, scientific, and artistic works (copyright law), as modified by subsequent regulations.

9. Part 2 and Part 4 of Law No. 35/1965 Sb.

10. For example, Section 842 of the Civil Code.

11. Czech National Council Law No. 202/1990 Sb. on lotteries and other similar games; Slovak National Council Law No. 194/1990 Sb. on lotteries and other similar games.

12. According to data published by statistical organs.

13. Law No. 22/1992 Sb. on the State Bank of Czechoslovakia.

14. Law No. /1992 Sb. on investment corporations and investment funds.

15. Law No. 92/1991 Sb.; Czech National Council Law No. 171/1991 Sb. on the jurisdiction of organs of the Czech Republic in matters of transferring state property to other individuals and on the Fund of National Property of the Czech Republic; Slovak National Council Law No. 253/1991 Sb. on the jurisdiction of organs of the Slovak Republic in matters of transferring state property to other individuals and on the Fund of National Property of the Slovak Republic.

16. For example, Slovak National Council Law No. 95/1991 Sb. on the state cultural fund, as modified by subsequent regulations; Slovak National Council Law No. 128/1991 Sb. on the state environmental fund of the Slovak Republic; Czech National Council Law No. 388/1991 Sb. on the state environmental fund of the Czech Republic.

17. Law No. 563/1991 Sb. on accountancy. The directive on accounting and the Principles for Simple Accounting, as published in SBIRKA ZAKONU.

18. For example, Law No. 119/1992 Sb. on reimbursement of federal expenses.

19. Law No. 1/1991 Sb. on employment, as modified by subsequent regulations; Czech National Council Law No. 550/1991 Sb. on general health insurance; Slovak National Council Law No. /1991 Sb. on obligatory health insurance; Law No. /1992 Sb. on financing social insurance.

20. For example, Law No. 238/1991 Sb. on waste materials; Law No. 309/1991 Sb. on protecting the atmosphere against contaminants (law on the atmosphere).

21. For example, Czech Republic Ministry of Health Notice No. 242/1991 Sb. on the system of health care



facilities established by okres offices and by communities, Slovak Republic Ministry of Health Notice No. 19/1975 Sb. on the system of health care facilities; Law No. 20/1966 Sb. on care for the health of the people, as modified by Czech National Council Law No. 548/1991 Sb., Slovak National Council Law No. 196/1990 Sb., Slovak National Council Law No. 419/1991 Sb., and related legal regulations, for example, Czech Republic Ministry of Health Notice No. /1992 Sb. on preventive health care; Law No. /1992 Sb. on protecting the public health.

22. Law No. 119/1992 Sb. on reimbursement for travel expenses. Limits on per diem in foreign official travel, as published in SBIRKA ZAKONU.

23. Czech National Council Law No. 133/1985 Sb. on fire protection, as modified by subsequent regulations; Slovak National Council Law No. 126/1985 Sb. on fire protection, as modified by subsequent regulations.

24. Law No. /1992 Sb. on protection and on compulsory military service.

25. Law No. 309/1991 Sb.; Czech National Council Law No. 389/1991 Sb. on state administration of the atmosphere and on fees for contaminating it.

26. Czechoslovak Socialist Republic Regulation No. 35/1979 Sb. on fees in water management, as modified by subsequent regulations.

27. Law No. 22/1964 Sb. on real estate records, as modified by subsequent regulations, and regulations implementing this law.

28. Law No. 35/1985 Sb., as modified by subsequent regulations.

29. Section 25, Paragraph 4, of Law No. 563/1991 Sb.

30. Section 1 of Federal Ministry for Technical and Investment Development Notice No. 85/1976 Sb. on the more detailed regulation of territorial proceedings and the Building Code, as modified by subsequent regulations.

31. Section 21 of Law No. 1/1991 Sb., as modified by subsequent regulations.

32. Directives pertaining to state statistical documentation in the area of work and wages, issued by the Federal Statistical Office.

33. Foreign Exchange Law No. 528/1990 Sb., as modified by subsequent regulations.

34. Federal Ministry of Finance Notice No. 586/1990 Sb., as modified by Notice No. 345/1991 Sb.; Law No. 389/1990 Sb. on taxing the incomes of the population.

35. Communications dealing with the procedure for valorizing, accounting for, and depreciating items acquired by legal entities or individuals as a result of their transfer from state ownership, as published in the FINANCIAL GAZETTE, No. 9, 1991.

**Decree on Suspension of Correctional Labor Sentences**

**Text of Decree**

92CH0903A Budapest MAGYAR KOZLONY  
in Hungarian No 84, 7 Aug 92 p 2,717

[“Minister of Justice Decree No. 13 of 7 August 1992 concerning the interruption of stringent correctional, educational labor sentences”]

[Text] In agreement with the supreme prosecutor, based on Paragraph 398 Section (2) of Law No. 1 of 1973, as amended several times, I order the following:

**Paragraph 1**

1. Effective 15 August 1992 I interrupt the punishment of persons sentenced to perform stringent correctional, educational labor.

2. The interruption taking effect pursuant to Section (1) shall be for an indefinite period of time, until further action is taken.

**Paragraph 2**

Convicts presently serving correctional, educational labor sentences shall be freed by the date shown in Paragraph 1 Section (1).

**Paragraph 3**

The punishment of persons sentenced to perform correctional, educational labor and admitted to penal institutions after 15 August 1992 shall be interrupted without delay after processing by the receiving institution.

**Paragraph 4**

This decree shall take effect on 15 August 1992 and shall be enforced by the commander of the penal authorities.

[Signed] Dr. Istvan Balsai, Minister of Justice

**Interpretation**

92CH0903B Budapest HETI VILAGGAZDASAG  
in Hungarian 15 Aug 92 p 15

[Unattributed article: “Interrupted Sentences”]

[Text] Effective 15 August, the minister of justice has suspended for a definite period of time—officially...until further action—the punishment of persons sentenced to perform stringent correctional, educational labor. This punishment became part of the Criminal Code of Laws in 1984 on grounds that “making truants become accustomed to regular work requires their confinement to one place and demands a more stringent supervision of their ways of life.” Convicts are obligated to work at a given place and to live at designated quarters. The minimum stringent correctional, educational labor term is one year, the maximum is two years; a three-year sentence may be pronounced in the form of cumulative or combined sentences. According to the rules of criminal procedure, the minister of justice has authority to interrupt stringent correctional, educational labor sentences “for important reasons.” The likely background to the present ministerial decree is that this type of punishment has long been the subject of debate among professionals (HVG 8 December 1984), and that after reviewing penal rules the government has recommended that the stringent variety of correctional, educational labor be discontinued (HVG 15 February and 6 June 1992). Based on the new provisions persons already serving their sentences must be “let go” by 15 August, and the sentences of those who would begin serving their sentences only after the middle of the months must be “interrupted without delay after their processing by the receiving institution.” Fifty-five persons were serving stringent correctional, educational labor sentences as of 6 August according to data obtained from the Office of the Supreme Prosecutor.

**Law on Presidential Elections**

92BA1238A Bucharest DIMINEATA (Supplement)  
in Romanian 11 Jul 92 pp 1-4

["Text" of Law on the Election of the President of Romania, passed on 8 June 1992]

[Text]

**CHAPTER I: General Provisions**

**Article 1.1.** The president of Romania will be elected by universal, equal, direct, secret, and free vote in compliance with the present law.

2. Each voter is entitled to one vote at each round of elections organized for the election of the president of Romania, in accordance with Article 51 Paragraph (2) and (3) of the Constitution.

**Article 2.1.** The balloting operations for the election of the president of Romania will be carried out in administrative-territorial units at electoral districts and balloting centers, under the supervision of the electoral offices envisaged by law for the election of the Chamber of Deputies and Senate, on the basis of the same electoral lists.

2. In accordance with Article 14 letter d) of the Constitution, the Constitutional Court will ensure observance of the provisions of the present law throughout the country and confirm the results of the election.

**Article 3.1.** Candidates proposed by political parties and groups or independent candidates may run in the election for the president of Romania. Political parties and groups may nominate only one candidate each, either individually or together.

2. Both candidates nominated by political parties or groups and independent candidates may be entered only if they are supported by at least 100,000 voters. Each voter may support only one candidate.

**Article 4.1.** The election date will be established and announced to the public by the government at least 60 days before election day and up to the fifth day of the expiration date of the mandate of the president in office or, as the case may be, of the beginning of the period envisaged in Article 96 Paragraph (2) of the Constitution.

2. The election will be held in a single day, which may only be a Sunday.

**CHAPTER II: Election Organization and Process****Section 1. Electoral Bureau Duties**

**Article 5.** The Central Electoral Bureau has the following duties:

a) To ensure the updating of electoral lists, supervise enforcement of the legal provisions regarding the election of the president of Romania throughout the country, and ensure their even implementation;

b) Verify compliance with the provisions of the present law for entering candidates and register the candidates who meet those conditions;

c) Communicate the candidates registered to the district electoral bureaus and announce their name in the press;

d) Resolve objections regarding its own activities and appeals filed with district electoral bureaus; the solutions pronounced are final;

e) Centralize the results of the election, ascertain the candidate elected, and present to the Constitutional Court the documentation required to validate the office of president of Romania;

f) Carry out any other duties incumbent on it under the present law.

**Article 6.** The district electoral bureaus have the following duties:

a) Bring out the printed matter and posters envisaged by law within five days of having received the communication on the candidates registered by the Central Electoral Bureau;

b) Resolve objections regarding their own activities and appeals concerning the operation of the electoral bureaus of the voting centers;

c) Distribute ballots, control stamps, and "Voted" stamps to the electoral bureaus of the voting centers;

d) Centralize the election results for the respective electoral district and send reports containing those results to the Central Electoral Bureau, along with the objections, appeals, and reports received from the electoral bureaus of the voting centers;

e) Carry out any other duties assigned to them by law.

**Article 7.** The electoral bureaus of the voting centers will duly carry out the duties incumbent on them in accordance with the law on the election of the Chamber of Deputies and Senate.

**Article 8.** The electoral bureaus will operate and take decisions by a vote of the majority of the members in attendance.

**Section 2. Candidates**

**Article 9.1.** The candidates nominated for the election of the president of Romania will be entered at the Central Electoral Bureau at the latest 30 days before election day.

2. The nominations will be made in writing and will be accepted only if:

a) they are signed by the leadership of the political party or groups that nominated the candidate or by the independent candidate, as the case may be;

b) they feature the first and last name, place and date of birth, marital status, residence, education, occupation, and profession of the candidate and the specification that he meets the conditions required by law for candidacy;

c) they are accompanied by a declaration of acceptance of the nomination written, signed, and dated by the candidate, and the list or lists of supporters, whose number may not be lower than 100,000 voters; the list or lists of supporters must show first and last name of the candidate and the first and last names, date of birth, address, identity card series and number, and signatures of the candidate's supporters.

3. The list of supporters is a public act liable to the sanction envisaged in Article 292 of the Penal Code.

4. The candidacy proposal will be filed in four copies, one original and three copies, of which the original and one copy will be kept at the Central Electoral Bureau, one copy will be registered with the Constitutional Court, and the fourth will be returned to the filer after being certified by the chairman of the Central Electoral Bureau.

**Article 10.** Persons who on the date the candidacy was entered did not meet the conditions envisaged in Article 35 of the Constitution for being elected, or who had previously been elected twice as president of Romania, may not candidate.

**Article 11.1.** The Central Electoral Bureau will publicly announce in the press and will post at its offices the names of the candidates received, within 24 hours of registration.

2. Up to 20 days before election day, the candidate, parties, political groups, or citizens may challenge the registration or failure to register a candidate. The appeal will be filed with the Central Electoral Bureau, which within 24 hours will convey it, along with the candidacy file, to the Constitutional Court for a decision.

3. The Constitutional Court will resolve the appeal within 48 hours of it being filed. The decision will be final and will be published in Romania's MONITORUL OFICIAL.

4. One day after the expiration of the period envisaged for resolving appeals as stated in Paragraph (3) the Central Electoral Bureau will communicate to the district electoral bureaus the candidacies finally registered in the order in which they were entered.

### Section 3. Ballots

**Article 12.1.** The ballots will be printed according to the model shown in the annex.

2. The size of the ballots will be established by the Central Electoral Bureau in keeping with the number of candidates and the space required to print them, and will be sent to district electoral bureaus along with the communication on the candidates.

3. The district electoral bureaus will be in charge of the printing of the ballots, through the intermediary of the prefects, in compliance with the legal provisions regarding the printing of ballots for the election of the Chamber of Deputies and Senate, which are duly applicable. The prefects will be responsible for ensuring that all the ballots have been printed at least 10 days before the election day.

**Article 13.1.** The electoral symbols will be declared at the Central Electoral Bureau at the time when the candidacy is entered.

2. If the election for the president of Romania takes place simultaneously with elections for the Chamber of Deputies and Senate, only the electoral symbols decided for the election of the two Houses will be used. If the election for the president of Romania takes place at a different date, only the electoral symbols decided at the latest election for the Chamber of Deputies and Senate will be used. The provisions of the law on the election of the Chamber of Deputies and Senate referring to symbols and names will be applicable to parties or political groups that did not participate in that election and to electoral coalitions.

**Article 14.** The legal provisions for the election of the Chamber of Deputies and Senate regarding voting centers stamps, the conveyance, distribution, and posting of ballots, or the issue of certain stamped and cancelled ballots are also applicable to the election of the president of Romania.

### Section 4. The Electoral Campaign and Voting Process

**Article 15.1.** The electoral campaign and the voting for the president of Romania will proceed according to the legal provisions regarding the election of the Chamber of Deputies and Senate, with the exceptions featured in the present section.

2. The incumbent president may participate in the electoral campaign of his party or the political group that nominated him or is supporting his candidacy, in keeping with Article 9.

**Article 16.1.** The candidates running in the election for the president of Romania will have equal and free access to public television and radio services.

2. The schedule for the electoral campaign and the allocation of equal and free broadcast time on public television and radio for all the candidates will be

decided, after the end of the period for entering candidacies, by the joint standing bureaus of the two Parliament Houses in conjunction with representatives of public radio and television services and with the participation of the candidates.

3. If the election for the president of Romania takes place simultaneously with the elections for the Chamber of Deputies and Senate, the schedule and allocation of air space for the electoral campaign for the election of the two Houses will also be taken into consideration.

**Article 17.** Appeals against the decisions of district electoral bureaus regarding complaints filed with it about preventing a given party, political group, or candidate from carrying out their electoral campaign will be resolved within three days of being filed.

**Article 18.1.** If the election for the president of Romania takes place simultaneously with those for the Chamber of Deputies and Senate, the persons accredited to attend the electoral operations for the election of deputies and senators may also attend those for the election of the president of Romania.

2. If the election for the president of Romania takes place at a different date, the Central Electoral Bureau will be in charge of accrediting Romanian or foreign press, movie, radio, and television representatives or foreign observers who so desire, to attend the voting operations.

3. In the situation described under Paragraph (2), the parties and political groups who entered candidates may designate a single delegate for each voting center and district electoral bureau to attend the voting operations. The designation will be done by communicating the first and last name and address of the representative under the signature of the leadership of the party or political group. If several parties or political groups have entered the same candidate, they may designate only one common representative.

**Article 19.1.** The voters will vote by applying the stamp inside the rectangle containing the first and last name of the candidate for whom they are voting.

2. If the election for the president of Romania takes place simultaneously with those for the Chamber of Deputies and Senate, the stamp will be applied on the voter's card on only one electoral number.

3. If the election for the president of Romania takes place at a different date than those for the Chamber of Deputies and Senate, the stamps will be applied on the voter's card on the electoral number publicly announced by the government along with the date of balloting.

4. At the second round of elections the stamps will be applied on the following electoral number.

### CHAPTER III: Establishing Election Results

**Article 20.1.** The electoral operations involved in ascertaining the ballot results at the voting centers, and

appeals and objections regarding the voting operations and the opening of the ballot boxes will be carried out in compliance with the legal provisions regarding the election of the Chamber of Deputies and Senate.

2. The balloting results at the voting centers will be entered in a table.

3. Candidates running in the Parliamentary elections for parties or political groups who also entered candidates for the election of the president of Romania are also entitled to keep a table. If the elections for the two Houses and for the president of Romania are not held simultaneously, this right will devolve on the delegates of the parties or political groups who nominated candidates in the election for the president of Romania.

4. The tables will feature void ballots, the first and last name of the candidates, and the valid votes given to each candidate.

**Article 21.1.** After the ballot boxes have been opened and the votes counted, the chairman of the voting center will draft a report, in two copies, showing:

- a) number of voters according to the permanent electoral lists;
- b) number of voters who turned out to vote; the distribution of that number in accordance with the voters on the permanent list and the special list;
- c) total number of votes expressed;
- d) number of void ballots;
- e) number of valid votes given to each candidate;
- f) a brief presentation of the challenges and objections and how they were resolved, and of appeals filed with the district electoral bureau for resolving.

2. The reports will be signed by the chairman and members of the bureau.

3. Members of the electoral bureaus of the voting centers who signed the report may be issued, upon request, one copy certified by all those who signed the original; the request must be made before the report is drafted.

4. Absence of the signatures of some members of the voting center bureau will have no impact on the validity of the report. The chairman will make a mention of the reasons for the absence of the signatures.

5. The reports, along with all the challenges regarding the electoral operations of the voting center and the void ballots and contested ballots will be placed in a file which will be sealed, stamped, and conveyed to the district electoral bureau by the chairman of the electoral bureau of the voting center and its members, under military guard, within at the most 24 hours.

6. Within 24 hours of having received the file, the district electoral bureau will send one of the copies of the report



to the court in whose jurisdiction the electoral district is located; the candidates or the parties or political groups who nominated them may obtain legalized copies of the report.

**Article 22.1.** After the reports have been received from all the electoral bureaus of the voting centers and after the challenges and objections received have been settled, the district electoral bureau will draft a report that will include:

- a) the number of voters in the electoral district as per the permanent electoral lists;
- b) the total number of voters who turned out at the ballot box; the distribution of that number between the permanent and special lists;
- c) total number of valid votes given;
- d) number of cancelled votes;
- e) number of valid votes given to each candidate in that electoral district;
- f) a brief presentation of objections and challenges and of the decisions taken by the district electoral bureau.

2. The provisions of Article 21 Paragraph (2) and (4) will be duly implemented.

3. The report, along with the objections, challenges, and reports received from the electoral bureaus of the voting centers, made into a file, sealed and signed by the members of the electoral bureaus, will be sent under military guard to the Central Electoral Bureau within at the most 48 hours after the receipt of the last report from the electoral bureaus of the voting centers.

**Article 23.1.** The Central Electoral Bureau will settle the objections and appeals filed; its decisions are final; after passing its decisions it will draft a report that will include:

- a) the total number of voters according to the electoral lists of the localities in which they reside;
- b) total number of voters who turned out;
- c) total number of void ballots;
- d) total number of validly cast votes for the entire country and for each candidate, and verification of the fulfillment of the conditions envisaged in Article 81 of the Constitution; should those conditions not have been met, the first and last name of the candidates who are to participate in the second round of elections;
- e) centralized results of the second round, in keeping with the provisions under letters a)-d), which will be duly implemented, and the first and last name of the candidate whose election was ascertained;
- f) the decisions taken on the objections and appeals received.

2. The terms of Article 21 Paragraph (2) and (4) will be duly implemented.

3. The report on each round of elections, along with the files of the district electoral bureaus received in accordance with Article 22 Paragraph (3) will be sent under military guard to the Constitutional Court within 24 hours of the registration of the last file.

**Article 24.1.** The Constitutional Court will cancel the elections if fraud was involved in the voting and counting of the results, apt to change the attribution of the mandate or, as the case may be, the order in which the candidates may participate in the second round of elections. In such a situation the Court will order a repeat round of elections on the third Sunday after the cancellation of the election.

2. The request to have the election cancelled may be made by the parties, political groups, and candidates who participated in the election within at most three days of the closing of the voting; the request must be substantiated and must be accompanied by the evidence on which it is based.

3. The request may be accepted only if the author of the request was not implicated in the fraud.

4. The Constitutional Court will settle the request by the date envisaged by law for publicly announcing the results of the election.

**Article 25.1.** The Constitutional Court will publish the results of the elections in the press and in MONITORUL OFICIAL for each round of elections and will validate the results of the election for the president elect.

2. The validation document will be drafted in three copies, one of which will be submitted to Parliament for the oath taking envisaged in Article 82 Paragraph (2) of the Constitution, and the third will be handed to the candidate elected.

**Art 26.1.** The second round of elections will take place in the conditions envisaged in Article 82 Paragraph (3) of the Constitution two weeks after the first round of elections, at the same voting centers and electoral districts, having the electoral operations overseen by the same electoral bureaus and on the basis of the same electoral lists as at the first round.

2. In the second round of elections will participate the first two candidates who won the largest number of valid votes for the country in the first round. This number of votes will be confirmed by the Constitutional Court within 24 hours of having received the reports envisaged in Article 23 Paragraph (3), by publicly announcing the first and last names of the two candidates who are to run in the second round of elections and the election day established as per Paragraph (1).

3. The electoral campaign for the second round of elections will begin on the date on which the election date was publicly announced.

4. Within two days of the opening of the electoral campaign, its public television and radio schedules will be established, as will the allocation of time on the air, in keeping with Article 16, which will be duly implemented.

5. The persons accredited to attend the electoral operations at the first round of elections will be lawfully accredited to attend those operations at the second round, too.

**Article 27.** The contraventional sanctions and punishments envisaged by law for violating the legal terms regarding the elections of the Chamber of Deputies and Senate will also be applicable for violation of the relevant legal terms regarding the election of the president of Romania.

**Article 28.1.** The legal provisions for the election of the Chamber of Deputies and Senate regarding payment of electoral expenses, stamp tax, and government support for the activities of the electoral bureaus and court judgment of objections, challenges, and any other applications will also be implementing regarding the election of the president of Romania.

2. If the election for the president of Romania is held simultaneously with the election of the Chamber of Deputies and Senate, the expenses incurred for the voting operations, including state budget subsidies for parties and political groups, will be paid out of the funds allocated for the election of the two Houses.

3. If the elections for the president of Romania take place at another date than the parliamentary elections, a special law will be passed on subsidizing the electoral campaign of the parties and political groups who entered candidates. The parties and political groups that did not obtain at least 10 percent of the valid votes cast throughout the country for their candidate will return the subsidy within two months of the date of closing of the electoral campaign.

**Article 29.1.** The 1992 elections for the president of Romania will take place at the same time as those for the Chamber of Deputies and Senate.

2. Domestic observers may also be accredited to attend the electoral operations of the elections envisaged under Paragraph (1), in the conditions envisaged by the law on the election of the Chamber of Deputies and Senate.

**Article 30.** Decree-law No. 92/1992 on the election of the Parliament and the president of Romania is hereby abrogated.

This law was passed by the Chamber of Deputies and Senate in joint session on 8 June 1992 in compliance with the provisions of Article 74 Paragraph (1) and Article 76 Paragraph (2) of Romania's Constitution.

[signed] Academician Alexandru Birladeanu, speaker of the Senate

Dan Martian, speaker of the Chamber of Deputies

## Annex

### Voting Ballot for Electing the President of Romania

Electoral District No. ....

Date of election .....

[The second side of the ballot features six equal rectangles in two columns]

1) Full name of the party, political group, or "independent candidate."

2) Electoral symbol; a three-letter distance must be left between the name of the party, political group, or mention "independent candidate" and the electoral symbol.

3) First and last names of the candidate.

Note:

The number of rectangles printed will be the same as the number of candidates, in the order in which the candidacies were entered.

The ballot paper will be white and thick enough not to allow the name printed and the vote cast to be seen on the other side.

Enough rectangles will be printed on the ballot pages to contain all the candidates, except for the last page, which will be left blank for the control stamp.

All the first and last names and the words written inside a rectangle will be printed in size 10 straight block letters.

The pages of the voting ballot, including the last, blank page, will be numbered.

All the stamp pads used within one electoral district will be of the same color.

The electoral symbol will be printed inside a graphic space of 2.5 x 2.5 cm.

### Law on Parliamentary Elections

92BA1266A Bucharest MONITORUL OFICIAL  
in Romanian 16 Jul 92 pp 1-23

[Law on the Election of the Chamber of Deputies and Senate, issued in Bucharest on 15 July 1992]

[Text] The Romanian Parliament passed the present law.

### CHAPTER I: General Provisions

**Article 1.** The Chamber of Deputies and Senate will be elected by universal, equal, direct, secret, and free vote cast in according to the terms of the present law.

**Article 2.** Voters are entitled to one ballot for the election of the Chamber of Deputies and one ballot for the election of the Senate.

**Article 3.** (1) Deputies and senators will be elected by electoral districts on the basis of voting lists and independent candidates, in accordance with the principle of proportional representation.

(2) The representation norm for the election of the Chamber of Deputies is one deputy for 70,000 inhabitants.

(3) The representation norm for the election of the Senate is one senator for 160,000 inhabitants.

(4) The number of deputies and senators to be elected will be decided by dividing the number of residents in each electoral district by the representation norms envisaged in Paragraph (2) and (3), plus one deputy or senator seat for anything exceeding half of the representation norm, whereby the number of deputies may not be smaller of four and that of senators smaller than two.

(5) The number of citizens taken into calculation as per Paragraph (4) is that published in Romania's Statistics Annual for 1 July 1991. If a general population census should be held at least five months before the election date, the number of inhabitants taken into calculation will be that shown by the census and published by the National Commission for Statistics.

(6) The numbering of the electoral districts and the number of deputies and senators to be elected in each electoral district are given in Annex No. 1.

**Article 4.** (1) Legally formed organizations of citizens belonging to a national minority that did not win in the election at least one deputy or senator seat, are entitled to one deputy seat altogether, in compliance with Article 59 Paragraph (2) of the Constitution, if throughout the country they won a number of votes equal to at least 5 percent of the average number of validly expressed nationwide votes for the election of one deputy.

(2) Civic organizations belonging to national minorities, which are taking part in the elections, are legally the same as political parties with respect to electoral operations.

(3) The provisions of Paragraph (1) are also applicable to civic organizations of national minorities which participate in the elections on the joint list of such organizations; in that case, if none of the candidates on the joint list was elected, one deputy seat will be awarded for all the organizations on the list, in compliance with the provisions of Paragraph (1).

(4) The provisions of Paragraph (3) do not apply to civic organizations of national minorities that participated in the election on a joint list with a party or other political group, or both on joint lists according to Paragraph (3), or on its own lists.

(95) The deputy seat assigned in keeping with Paragraph (1) or (3) will be awarded in addition to the total number of deputies called for by the representation norm.

**Article 5.** (1) Candidates for the Chamber of Deputies and Senate will be run on separate lists of candidates and only by legally formed parties and other political groups.

(2) The number of candidates on each list may be higher than the number of seats resulting from the representation norm by two to one-fourth of the number of those seats; fractions will be rounded up to one.

(3) Each party, political group, or coalition may enter only one list of candidates for each of the Parliament Houses in the same electoral district. Coalitions of parties and political groups may be formed only at national level. Parties and political groups belonging to electoral coalitions may participate in the election only on the coalition lists. Every party and political group may belong to only one electoral coalition.

(4) The lists of candidates must also feature the political affiliation of the candidates, too, according to case.

(5) Independent candidates may enter the election only individually and if they have the support of at least 0.5 percent of the total number of voters registered on the permanent lists of the localities belonging to the electoral district for which they are running. Independent candidates may not run on the lists of candidates entered by parties, political groups, or coalitions, or on lists of independent candidates.

(6) Every person may candidate for either a deputy or a senator seat and in only one electoral district.

(7) Candidacies entered on several lists of candidates or on both lists and as independents, will be void.

**Article 6.** (1) The election date will be decided and made public by the government, at least 60 days before the voting day and up to five days of the date on which the terms envisaged in Article 60 Paragraph (2) of the Constitution begin to be counted.

(2) The elections will be held in one day, which may be only a Sunday.

(3) The electoral serial number appearing in the voter's card will be established and made public by the government at the same time as the election date.

(4) The public announcement will be made in the MONITORUL OFICIAL and the press.

## CHAPTER II: Electoral Lists and Voter Cards

### Section 1.: Electoral Lists

**Article 7.** The electoral lists will feature the citizens entitled to vote. The lists may be either permanent or special.

**Article 8.** (1) Permanent electoral lists will be compiled according to localities and will feature all the citizens entitled to vote who reside in the locality in question. Romanian citizens residing abroad may be entered, upon their request, on the permanent electoral lists of the locality in which they were born or in which they had their last residence in Romania. The request will be filed with the Romanian diplomatic mission in the country in which they reside or directly with the local council.

(2) The permanent electoral lists will be compiled by the mayors of communes, towns, municipalities, or administrative-territorial subdivisions of municipalities.

(3) Permanent electoral lists will be compiled in communes by villages and in towns, municipalities, and administrative-territorial municipal divisions by streets.

(4) The permanent electoral lists will feature the number of buildings in which the voters reside, first and last name, date of birth, and place of residence and the number of the electoral district.

(5) The permanent electoral lists will be drafted in two official copies, signed by the mayor and the secretary of the local council, and will be kept in two special ledgers with detachable pages, one of which will be kept by the secretary of the local council and the other by the court in whose territorial jurisdiction the respective locality is located.

(6) The mayor is obligated to communicate to the court any change in the electoral lists.

**Article 9.** (1) The permanent electoral lists will be yearly updated by the mayors, in January and within 15 days of the date of establishment of the election day.

(2) The deceased will be struck off the electoral lists on the basis of a communication from the local public service where the death was registered. The communication will be made within 24 hours.

(3) Persons who forfeited their Romanian citizenship will be struck off the electoral lists on the basis of a communication from the Ministry of Justice.

(4) Persons who have forfeited their electoral rights will be struck off the electoral list on the basis of an ex officio court communication.

**Article 10.** (1) Each voter will appear on only one permanent electoral list.

(2) Registration on permanent electoral lists is obligatory. In case of change of residence, the authority in charge of entering the change is obligated to ex officio communicate to the mayor the necessary data for entering the citizen on the electoral list for the new residence and for making the appropriate deletion from the electoral list of the previous place of residence.

**Article 11.** Special electoral lists will be drafted for the cases envisaged in the present law and will feature first

and last name, address, date of birth, number and series of the voter's identity card. The lists will be signed by the chairman of the electoral bureau of the balloting center where they were compiled.

**Article 12.** (1) Voters are entitled to verify their registration on electoral lists. Appeals concerning omissions, mistaken entries, or any error on the lists may be filed with the authorities who compiled the lists, who are obligated to issue an order with their decision within at the most three days of registration.

(2) Appeals against decisions issued will be resolved within at most three days of registration by the court in whose territorial jurisdiction the voter has his residence or, in the case of persons entered on special lists, by the court on whose territorial jurisdiction is the electoral bureau of the voting center that compiled the list. The court decision is subject to execution. The decision handed down may be appealed within 48 hours of being pronounced. The appeal will be resolved within three days of being filed.

(3) Appeals regarding special lists abroad will be resolved by the head of the diplomatic mission or his deputy. Appeals against the decision of the head of diplomatic mission or his deputy will be filed with the mission and sent to be resolved by the Court of Bucharest Sector I, whereby the provisions of Paragraph (2) will be duly applied.

**Article 13.** (1) The mayors who compiled the permanent electoral lists will submit one copy of the lists, featuring the voters of each voting center, to the electoral bureaus of the voting centers within 24 hours of their completion.

(2) Changes made after copies of the electoral lists were sent off will be communicated to the court and the electoral bureau of the voting center within 24 hours.

## Section 2: Voter Cards

**Article 14.** (1) The right to vote may be exercised only on the basis of a voter card issued in accordance with the present law. Romanian citizens abroad may vote without a voter card.

(2) The pattern of the voter card is given in Annex No. 2.

(3) Every voter may receive only one voter card.

**Article 15.** (1) Voter cards are permanent and valid for all national electoral consultations in accordance with the number of rounds included in them, and they are issued to voters registered on the permanent electoral lists of the localities in which they reside.

(2) Voter cards will be kept and used only by the owner.

**Article 16.** (1) Voter cards are prepared by the mayor of the locality in which the voter resides.

(2) Voter cards will be issued on the basis of an identity card, only to the owner, and under his signature, by:

a) The mayor who prepared it;

b) The mayor of the locality in which the voter resides, within 10 days and at the voter's request; the mayor to whom the request was addressed will ask the mayor of the locality in which the voter resides to send the voter card; aside from sending the card, the latter will also make an entry accordingly in the permanent electoral list of the locality;

c) The electoral bureau of the voting center in the locality in which the voter resides, in the case of voter cards not picked up; for that purpose, three days before election day, any voter cards that were not picked up will be handed by the mayor to the electoral bureau of the voting center, accompanied by a report stating the number of voter cards and owners' first and last name and address.

(3) Only identity cards may be used as proof of address or residence.

(4) After the electoral lists have been updated in keeping with Article 9 Paragraph (1), voter cards will be prepared and issued to citizens who turned 18 years old by January or who are to turn 18 by or on election day, in compliance with the provisions of Paragraph (1) and (2).

(5) Complaints and appeals regarding the preparation or issue of voter cards will be filed in compliance with the provisions of Article 12, which will be duly implemented.

(6) The records regarding voter cards will be kept by the secretary of the local council.

**Article 17.** (1) Should a voter have lost or destroyed his voter card, for whatever reason, a duplicate may be issued by the mayors envisaged in Article 16 Paragraph (2) letters a) and b), who will note the fact on the permanent electoral list of the locality.

(2) The duplicate will be issued at the request and on the responsibility of the owner. The original card declared lost or destroyed will be legally void.

### CHAPTER III: Voting Centers

**Article 18.** (1) Voting centers will be organized in localities as follows:

a) One voting center for each 1,000-2,000 citizens in localities with a population of over 2,000;

b) A single voting center in localities with less than 2,000 inhabitants.

(2) Voting centers may also be organized in villages or groups of villages with a population of up to 1,000 located at a greater distance than 5 km from the voting center of the commune seat.

**Article 19.** (1) Separate voting centers may be organized to serve military units, hospitals, maternities, sanitariums, hospices, and old people's homes with at least 50 voters.

(2) Voting centers may also be organized in railway and bus central stations, ports, and airports for voters who are in transit on election day.

(3) One voting center each will be organized at student dormitories or boarding schools for day students and students entitled to vote who do not reside in the localities in which they go to school, for 500-2,000 voters.

(4) Only military men may vote at voting centers organized at military units, and only students and pupils from the respective schools may vote at those organized for students.

**Article 20.** (1) One voting center each will be organized at Romanian diplomatic missions and consulates for voters who are members of such representations and their families, as well as for Romanian citizens residing in the country or abroad, who are sojourning in those countries on election day. Such voting centers are affiliated to the electoral district of the Bucharest Municipality.

(2) Voting sections will be organized on vessels flying the Romanian flag which are at sea on election day. Those voting centers belong to the electoral district of the locality where the vessel is registered.

**Article 21.** Voters will vote for both the Chamber of Deputies and Senate at the same voting center.

**Article 22.** (1) The delimitations of the voting centers will be decided by the local councils of communes, towns, municipalities, or municipal administrative-territorial subdivisions.

(2) All voting centers in one electoral district will be numbered, regardless of locality, beginning with the county seat or the seat of Ilfov agricultural sector, and continuing with those in municipalities, other towns, then communes, in alphabetical order; in municipalities with administrative-territorial subdivisions the centers will be numbered in the legal order of the subdivisions.

(3) Within 10 days of the establishment of the election day, the prefects are obligated to number all the voting centers and bring the numbers to the information of the public; they must also delimitate each voting center and indicate the place where the balloting will take place.

(4) Mayors and secretaries of local councils will provide all the necessary data, information, and support needed by the prefects to fulfill their obligations as per Paragraph (3).

### CHAPTER IV: Electoral Bureaus

**Article 23.** (1) In order to ensure smooth electoral operations, a Central Electoral Bureau, district electoral



bureaus, and voting center electoral bureaus will be established in compliance with the present law for each election.

(2) The electoral bureaus will be made up only of citizens entitled to vote; candidates may not be members of electoral bureaus.

(3) All members of electoral bureaus will exercise a duty implying state authority in discharging the tasks of the electoral bureaus. This duty must be carried out correctly and impartially.

**Article 24.** (1) The Central Electoral Bureau will be made up of seven Supreme Court Justices and 16 representatives of the parties, political groups, and coalitions participating in the election.

(2) The seven justices will be designated by drawing in a public session within five days of the establishment of the election date, by the president of the Supreme Court of Justice, from among all the active justices of the Court. The results of the drawing will be marked in a report signed by the president and the chief consultant of the Supreme Court of Justice, which will serve as the act of investiture. The date of the session will be announced to the public in the press by the president of the Supreme Court of Justice at least 48 hours prior to it.

(3) Within 24 hours of the investiture, the justices designated will in turn elect a chairman of the Central Electoral Bureau, by secret ballot. With this composition the Central Electoral Bureau will carry out all the duties incumbent on it in compliance with the present law, after being filled out with representatives of parties, political groups, and coalitions.

(4) Within two days of the date by which candidacies may be entered, the parties, political groups, and coalitions that are participating in the election will communicate in writing to the Central Electoral Bureau the number of lists of candidates from all the electoral districts and the first and last names of the representatives. Communications sent after that term will be disregarded.

(5) The representatives of parties, political groups, or coalitions in the Central Electoral Bureau will be designated in descending order of the number of lists of candidates communicated by each party, political group, or coalition, in keeping with Paragraph (4), in the number of electoral districts throughout the country. One party, political group, or coalition may not have more than five representatives.

(6) Persons who are to serve as representatives of a party, political group, or coalition in the Central Electoral Bureau will be decided in the order given in the communication envisaged in Paragraph (4).

(7) If several parties, political groups, or coalitions have entered the same number of lists, their representatives will be designated by drawing by the chairman of the

Central Electoral Bureau in the presence of the persons delegated by the respective parties, political groups, or coalitions.

(8) Representatives of parties, political groups, and coalitions will be appointed to the Central Electoral Bureau within 24 hours of the expiration of the term envisaged in Paragraph (4) by the chairman of the Central Electoral Bureau assisted by three judges, in the presence of the persons delegated by the parties, political groups, and coalitions that sent in names of representatives. The report drafted by the chairman on how the representatives were chosen will serve as proof of their status as members of the Central Electoral Bureau.

**Article 25.** (1) The Central Electoral Bureau will carry out the following duties:

a) Ensure the updating of the electoral lists, supervise the implementation of the electoral dispositions through the country, and provide uniform interpretation for them;

b) Handle objections regarding its own activities and appeals concerning the actions of district electoral bureaus;

c) Receive reports from district electoral bureaus containing the number of valid votes given each list of candidates, and verify the existence of parties, political groups, or coalitions that did not win at least 3 percent of the valid ballots cast throughout the country; within 24 hours, communicate to district electoral bureaus and the public the parties, political groups, and coalitions found in such a situation;

d) Verify and record the results of the election, add up for the entire country the number of unutilized ballots for each party, political group, or coalition that fits the condition envisaged under letter c), and ensure the centralized distribution and deployment by electoral districts of the seats to which they are entitled;

e) Certify the assignment of a deputy seat to civic organizations of national minorities that met the conditions envisaged in Article 4 and issue a certificate of proof to the deputy designated in this manner;

f) Cancel the elections in an electoral district if the balloting and the results recorded involved fraud of a nature to change the assignment of seats, and order a repeat round of elections;

g) Carry out any other duties incumbent on it under the present law.

(2) Should specific investigations be required in order to resolve an appeal, they will be carried out in the presence of a justice of the Central Electoral Bureau. Such investigations may not be carried out on election day.

(3) The request to cancel the elections in an electoral district may be made only by the parties, political groups, coalitions, or independent candidates who ran in

the election, within 48 hours of the closing of the voting, under punishment of forfeiting rights. The request must be grounded and must be accompanied by the evidence on which it rests. The request can be accepted only if the notifier was not involved in the fraud. The provisions of Paragraph (2) will be duly applied. The Central Electoral Bureau will resolve the request before the date of publication of the election results in MONITORUL OFICIAL of Romania.

(4) The decisions of the Central Electoral Bureau will be announced in public session.

**Article 26.** (1) The district electoral bureaus will be made up of three judges and at most eight representatives of the parties, political groups, or coalitions participating in the election in the electoral district of the electoral bureau.

(2) The three judges will be designated in public session within five days of the establishment of the election day, by the president of the court, by drawing from among the active judges of the county tribunal or of the Bucharest Municipal Tribunal. The date of the session will be announced to the public in the press by the president of the tribunal, at least 48 hours prior. The results of the drawing will be entered in a report signed by the president, which will constitute the act of investiture. Within 24 hours of the designation the judges will elect a chairman of the district electoral bureau by secret ballot. The bureau thus formed will carry out all its duties in compliance with the present law and will be filled out with representatives of the parties, political groups, or coalitions participating in the election.

(3) Within two days of the date by which candidacies may be entered, the parties, political groups, and coalitions will communicate in writing to the district electoral bureaus the number of candidates on the lists filed with the respective electoral district, and the first and last names of the representatives. Communications sent in after that term will be disregarded.

(4) The representatives of parties, political groups, and coalitions in the district electoral bureaus will be designated in descending order of the number of candidates communicated by each party, political group, or coalition, in compliance with Paragraph (3), of the total number of candidates in the communications received. A party, political group, or coalition may not have more than three representatives.

(5) Representatives of parties, political groups, or coalitions will be added to the electoral bureaus in keeping with the provisions of Article 24 Paragraph (6) and (8), which will be implemented accordingly. If several parties, political groups, or coalitions entered the same number of candidates, the representatives will be designated by drawing by the chairman of the district electoral bureau in the presence of delegations of the parties, political groups, or coalitions in question.

**Article 27.** (1) The district electoral bureaus will carry out the following duties:

a) Supervise the implementation of the legal electoral provisions applicable in their electoral district and the timely organization of voting centers;

b) Register the candidacies entered and ascertain that they are final;

c) Provide the publications and posters envisaged by law regarding the lists of candidates and independent candidates;

d) Settle challenges regarding their own activities and appeals concerning the work of the electoral bureaus of the voting centers in their electoral district;

e) Distribute ballots, control stamps, and "Voted" stamps to the electoral bureaus of the voting centers;

f) Add up the results of the balloting at the voting centers and send to the Central Electoral Bureau a report with the number of valid ballots cast for each list of candidates;

g) Based on the observation of the Central Electoral Bureau regarding parties, political groups, and coalitions that do not have at least 3 percent of the valid ballots throughout the country, ascertain the result of the election in their electoral district and issue certificates to deputies or senators, as the case may be, attesting their election;

h) Send to the Central Electoral Bureau reports showing the election results, as well as objections, appeals, and reports received from the electoral bureaus of the voting centers;

i) Carry out any other duties incumbent on them by law.

(2) The decisions of the electoral bureau will be reported in public session.

**Article 28.** (1) The electoral bureaus of voting centers will be made up of one chairman, one acting chairman, and at most seven members.

(2) The chairman and acting chairman will as a rule be magistrates or other jurists who do not belong to any party or political group, designated by the president of the county tribunal or the Bucharest Municipal Tribunal 15 days prior to the election day, by drawing from a list compiled by the prefects and communicated by them to the president of the tribunal at least five days before the drawing.

(3) If the number of jurists should be insufficient, the list will be filled out with other persons of a faultless reputation who do not belong to any party or political group.

(4) The list proposed by the prefect will feature 10 percent more persons than necessary as a reserve for the president of the tribunal. The list will show: first and last

name, address, telephone number, and acceptance signature of the persons suggested.

(5) The persons will be grouped for the drawing in keeping with the requirement that their homes be as close as possible to the office of the electoral bureau of the voting centers.

(6) The electoral bureaus of the voting centers will be formed on the day on which their members have been designated.

(7) The members of the electoral bureaus of the voting centers will be elected from among the representatives of the parties, political groups, and coalitions participating in the election, in descending order of the number of candidates entered for the respective electoral district.

(8) For that purpose, the chairman of the district electoral bureau will communicate to the chairmen of the electoral bureaus of the voting centers, within 24 hours of their designation, according to Paragraph (2), the number of candidates entered by each party, political group, and coalition. Also, each party, political group, and coalition are obligated to communicate to the chairman of the electoral bureau of the voting center the first and last name of their representative within the same length of time.

(9) If two or more parties, political groups, or coalitions have the same number of candidates, their representatives will sit on the electoral bureau of the voting center depending on the number of seats unoccupied by representatives of the parties, political groups, and coalitions that are in a more favorable situation according to Paragraph (7); if, following the implementation of this provision, not all the representatives can be included in the electoral bureau, its chairman will draw lots, in compliance with the provisions of Article 26 Paragraph (5), which will be duly applied.

(10) If the parties, political groups, or coalitions have not designated representatives or if the number of representatives is insufficient, the electoral bureaus of the voting centers will be filled out by the president of the tribunal by drawing from the list envisaged in Paragraph (4).

(11) The members of the electoral bureau of the voting center will be designated by the bureau chairman on the basis of the communications envisaged in Paragraph (8) or, as the case may be, of the provisions of Paragraph (9), by a report featuring the manner of establishment of the representatives, which will serve to attest their status as members of the electoral bureau of the voting center; the report will be drafted within 24 hours of the expiration of the term envisaged in Paragraph (8), with the participation of the interested parties, political groups, and coalitions, if they sent a delegate each for the purpose.

**Article 29.** The electoral bureaus of the voting centers have the following duties:

a) To receive a copy of the electoral lists communicated in keeping with Article 13 Paragraph (1) and any voter

cards not picked up in keeping with Article 16 letter c), and to receive the control and "Voted" stamps from the district electoral bureaus ballots for the electorate scheduled to vote at the voting centers;

b) To conduct the balloting operations and to take measures to ensure order at the voting centers and around it;

c) To count the votes and note the results;

d) To resolve challenges regarding their own activities;

e) To send reports to the district electoral bureaus showing the results of the ballot, along with appeals filed and the material to which they refer;

f) To return used and uncontested and cancelled ballots, stamps, and other balloting materiel to the court in whose jurisdiction they are located, accompanied by a report; the special electoral lists from voting centers serving military units will be sent under military guard to the units in question and will be kept by the unit's commanding officer.

**Article 30.** The electoral bureaus will operate in the presence of a majority of their members and will make decisions by a majority of the members present.

**Article 31.** Representatives of parties, political groups, or coalitions in electoral bureaus may not receive any other accreditations envisaged in the present law.

**Article 32.** (1) Parties, political groups, and independent candidates running in the election may protest the formation and composition of the electoral bureaus within at most 48 hours of the expiration of the term of organization or of filling out these bureaus, as the case may be.

(2) The objections will be resolved by the district electoral bureau if they concern the electoral bureau of the voting center, by the Central Electoral Bureau if they concern the district electoral bureau, or by the Supreme Court of Justice if they concern the Central Electoral Bureau, within at most two days of being filed. The decision will be final.

## CHAPTER V: Candidacies

**Article 33.** (1) Candidates will be proposed by electoral districts and will be registered with the district electoral bureaus at the latest 30 days before election day.

(2) Candidacies will be entered in writing, in four copies, by the parties or political groups participating in the election, under the signature of their leadership or of the persons designated to sign them; in the case of independent candidates, on the basis of lists of supporters.

(3) The list of supporters must feature the election date; first and last name of the candidate; first and last name, address, ID series and number, and signature of the supporters, and name of the person who made the list.

(4) The list of supporters is a public act entailing all the legal consequences.

(5) Only citizens entitled to vote may be supporters.

(6) One supporter may support only one candidate each for the Chamber of Deputies and Senate.

(7) Supporters are responsible for their own declaration of support.

(8) The lists of candidates envisaged in Paragraph (2) must feature the first and last name, address, place and date of birth, occupation, and profession of the candidate and must be accompanied by a statement of acceptance written, signed, and dated by the candidate.

(9) The acceptance statement will include the first and last name, political affiliation, profession, and occupation of the candidate, his written consent to candidate, and the specification that he meets all the legal conditions required for candidating.

**Article 34.** (1) Persons who, on the date on which the candidacy was entered, did not meet the conditions envisaged in Article 35 of the Constitution for being elected, may not candidate.

(2) Prefects, underprefects, and heads of public services of ministries and other decentralized governmental authorities may not candidate for electoral districts established in the administrative-territorial units in which they were in office in the six months prior to election day.

(3) Should he be elected as senator or deputy, the president of Romania is obligated to choose between the status of Parliament member or that of president by the date of validation.

**Article 35.** (1) The district electoral bureau will examine compliance with the legal conditions required for a person to candidate and will enter the candidates who meet those conditions.

(2) Two copies of the candidacies entered will be kept at the district electoral bureau, one will be filed with the court in whose jurisdiction the electoral district is located, and the fourth, certified by the bureau, will be returned to the filer.

**Article 36.** (1) Candidacies may be contested by citizens, parties, and other political groups up to 20 days prior to election day.

(2) For that purpose, one of the copies of the candidacies entered will be posted at the district electoral bureau within 24 hours of the candidacy being entered.

(3) Objections regarding the registration or rejection of candidacies will be resolved by the court in whose territorial jurisdiction the electoral district is located, within at most two days of being received. The decision will not be announced.

(4) The decision returned to the objection may be appealed within 24 hours of being pronounced with the hierarchically higher court. The appeal will be resolved within two days of being filed.

(5) Objections will feature the first and last name, address, and status of the objector; first and last name of the candidate; the grounds for the objection; date, signature of the objector, and if applicable, of the person designated to represent him.

(6) The objection and appeal will be filed with the competent court under punishment of cancellation.

(7) Once the terms envisaged in Paragraph (1), (3), and (4) have expired, the district electoral bureaus will ascertain, on the basis of a report, that the candidacies are final, will post the final candidacies at their premises, and will order the ballots to be printed.

#### CHAPTER VI: Ballots

**Article 37.** Ballots will be printed and the necessary voting stamps will be made in compliance with the models envisaged in Annex. No. 3.

**Article 38.** (1) The measurements of the ballots will be established by the district electoral bureaus in keeping with the number of lists of candidates and independent candidates and with the space required for printing them.

(2) The ballot paper will be white and thick enough to not allow the name printed and the vote given to be made out on the other side.

(3) A sufficient number of rectangles will be printed on the ballot pages to incorporate all the candidates, except for the last page, which will be left blank for the control stamp; the pages will be numbered.

(4) The ballots will be stapled.

(5) The rectangles will be printed to run parallel in two columns per page.

(6) The name of the party, political group or coalition participating in the election or the mention "Independent candidate" will be printed in the left upper corner of the rectangle, and the electoral symbol in the right corner.

(7) The lists of candidates will be printed in the rectangles on every ballot in the order produced by the drawing carried out by the district electoral bureau; the candidates will be identified on the list by first and last name and by political affiliation, as the case may be.

(8) A distinct rectangle will be printed for each independent candidate at the end of the ballot, in the order in which the candidacies were registered.

**Article 39.** (1) Electoral symbols will be chosen by each party, political group, or coalition and by each independent candidate and will be communicated to the Central Electoral Bureau three days after its formation.

(2) Electoral symbols used at previous elections may not be used by other parties, political groups, coalitions, or independent candidates except with the permission of those who had them, i.e. of the parties that made up the initial coalition.

(3) If the same electoral symbol is chosen by several parties, political groups, coalitions, or independent candidates, the symbol will be assigned to the first party, political group, coalition, or independent candidate who registered the symbol in question; should the symbol have been registered simultaneously or should it be impossible to determine who was first, the symbol will be assigned by drawing by the chairman of the Central Electoral Bureau within 24 hours of the expiration of the term envisaged in Paragraph (1).

(4) Electoral symbols may not violate the legal order.

(5) The Central Electoral Bureau will ensure that the electoral symbols are made public the next day after the expiration of the term envisaged in Paragraph (1).

**Article 40.** A coalition of parties that participated in the previous elections under a certain name may keep that name only if it has not changed its initial composition. Also, the name in question may not be used by another coalition.

**Article 41.** (1) Ballots will be printed in letters of the same size, with the same characters, and the same ink for an entire electoral district, in as many copies as there are voters in the district, plus 10 percent.

(2) The printing of the ballots will be ensured by the district electoral bureaus through the prefects. The prefects are responsible for ensuring that all the ballots are printed at least 10 days before election day.

**Article 42.** (1) The ballots will be handed to the chairman of the district electoral bureau, who will distribute them to the chairmen of the electoral bureaus of the voting centers at least two days before election day. The ballots will be handed and distributed in sealed 100-piece packets, accompanied by a report.

(2) Two copies each of the ballots, stamped and cancelled by the chairman of the district electoral bureau will be posted, one day before the election, at the courts and at the site of each voting center.

**Article 43.** Upon the request of the parties, political groups, coalitions, or independent candidates participating in the election, the district electoral bureau will issue two stamped and cancelled ballots for each.

## CHAPTER VII: Electoral Campaign

**Article 44.** (1) The electoral campaign begins on the date on which the election day is publicly announced and ends two days before the voting.

(2) In the electoral campaign, candidates, parties, political groups, all social organizations, and the citizenry are entitled to freely express their views without any discrimination at meetings and gatherings, on radio and television, in the press, and on other mass media.

(3) The methods used in the electoral campaign may not violate the law-governed order.

(4) Any kind of commercial publicity in the press or the audio-visual media aimed at electoral propaganda is forbidden.

(5) Electoral campaigning in military units is forbidden.

**Article 45.** (1) Parties and political groups participating in the electoral campaign may receive a state budget subsidy under a special law. The categories of electoral campaign actions that may be thus financed will be established by the law under which the subsidy is granted. Parties and political groups who did not get at least 5 percent of the votes validly expressed throughout the country will pay back the subsidy within two months of the election day.

(2) Contributions received after the opening of the electoral campaign from Romanian natural or legal persons, with the exception of the subsidies envisaged in Paragraph (1), may be used for the electoral campaign of a party or political group only if they were first publicly declared.

(3) The electoral campaign may not be directly or indirectly financed by foreign natural or legal persons. Money thus received will be seized and paid into the state budget.

(4) The electoral campaign of any party, political group, coalition, or independent candidate may not be financed by any public authority or institution, or any autonomous management or society in which the state holds all or most of the capital.

(5) Subsidies for the electoral campaign from the state budget or from other legal persons, or from natural persons may be accepted only through a financial agent designated for the purpose by the leadership of the party or political group.

(6) The financial agent is jointly responsible with the party or political group that designated him for the legality of the sums spent from the subsidies granted and for compliance with the provisions of Paragraph (2).

(7) The financial agent may be a natural or legal person.

(8) A party or political group may have several financial agents. In such case, their powers will be delimited when they are designated.



(9) Several parties or political groups may use the services of the same agent.

(10) The status of financial agent is acquired only after being officially registered with the Ministry of Economy and Finance and publicly announcing it in the press.

(11) The provisions of the present article will also be duly applied to independent candidates who receive subsidies from Romanian natural or legal persons.

**Article 46.** (1) Access to public radio and television services during the electoral campaign is guaranteed in compliance with the present article.

(2) Parties, political groups, and independent candidates represented in Parliament have access to public radio and television services, subsidized from the state budget. The other parties, political groups, and independent candidates will have access to such services on the basis of contracts signed between the competent bodies of the Romanian Radio and Television and the financial agents representing them, whereby uniform tariffs will be practiced per unit of time and broadcast.

(3) Within 48 hours of the establishment of the election date, the parties and political groups participating in the elections are obligated to request the management of the public radio and television services to allocate them air time. Requests coming in later than that time will not be considered.

(4) The electoral campaign schedule and the allocation of air time will be established by a special Parliamentary commission in conjunction with representatives of the public radio and television services within at most five days of the opening of the electoral campaign. The distribution will take into consideration the fact that parties and political groups represented in Parliament, as per Paragraph (2), will be allocated twice as much air time than the other parties and political groups, in proportion with their representation in Parliament.

(5) After the closing of the period of entering candidacies, a new schedule and a new distribution of air time will be made in keeping with Paragraph (4), proportionate to the number of lists of candidates entered throughout the country. The parties, political groups, or coalitions that did not enter lists of candidates in at least 10 electoral districts will forfeit their right to air time on central radio and television stations. The entering of candidacies will be proven by means of a certificate issued by the district electoral bureau.

(6) Independent candidates may exercise their right to air time one time, between five minutes and one hour, all equally, depending on the schedule established and on their number.

(7) Interviews, reportages, and other similar audiovisual services of a general interest for the public's information are not included in the right to air time.

**Article 47.** (1) Within five days of the opening of the electoral campaign, mayors are obligated to designate special places for electoral displays, in keeping with the number of parties, political groups, and coalitions that announced their intention to enter lists of candidates and of the persons who announced their intention to run in the election as independents.

(2) The mayors will ensure that the special electoral display places are located in squares, streets, and other public places frequented by the citizenry and that they do not interfere with traffic on public roads and with other activities in the localities in question. The mayors are first obligated to ensure the removal of any posters, signs, and symbols left over from previous electoral campaigns.

(3) Only parties, political groups, or coalitions that participate in the election and independent candidates may use electoral display sites.

(4) Parties, political groups, coalitions, or independent candidates may not utilize special electoral display places in such manner as to prevent another party, political group, coalition, or independent candidate from using them.

(5) In places other than the ones established in keeping with Paragraph (1) electoral displays are permitted only with the agreement of the owners or holders, as the case may be.

(6) Each party, political group, coalition, or independent candidate may display only one electoral poster on each electoral panel.

(7) Electoral posters may not exceed the size of 500x300 mm; posters announcing an electoral meeting may not exceed the size of 400x250 mm.

(8) Electoral posters in which colors are combined so as to suggest the Romanian or other state flag are forbidden.

(9) The police is obligated to ensure that electoral panels and posters are not defaced.

**Article 48.** (1) District electoral bureaus will supervise the correct unfolding of the electoral campaign in their district and will settle complaints brought to them about parties, political groups, coalitions, or independent candidates being prevented from pursuing their electoral campaign according to the law and in compliance with electoral deontology.

(2) Should the district electoral bureau find, upon dealing with the complaint, that administrative measures are required or that contraventional or penal sanctions are called for, it will notify the competent authorities.

(3) The decision passed by the district electoral bureau may be contested with the Central Electoral Bureau, whose decision on the complaint will be final.

(4) Complaints and objections will be settled within three days of being filed and the decisions taken will be published in the press and visibly posted at the offices of the electoral bureau that issued them.

#### CHAPTER VIII: The Voting Process

**Article 49.** (1) Each voting center must have sufficient booths, ballot boxes, and voting stamps proportionate to the number of voters on the lists communicated by the mayors.

(2) The booths and ballot boxes must be placed in the same room as the office of the chairman. The booths, ballot boxes, stamps, and other materiel required by the electoral bureau of the voting center will be supplied by the mayors of communes, towns, municipalities, and municipal administrative-territorial subdivisions in conjunction with the prefects.

(3) The stamps and other materiel required by the electoral bureaus of voting centers will be handed by the mayors to the chairmen of the voting centers, on the basis of a report, at least two days before election day. After taking over the ballots and stamps, the voting center chairmen will ensure that they are kept in complete safety.

(4) The forms and other printed matter required for voting will be given to the electoral bureaus of voting centers on the basis of delivery-acceptance lists showing the kind and number of copies of each printed form.

(5) The chairman of the electoral bureau of the voting center must be present at the voting center the day before election day at 1800 and is obligated to immediately take the necessary measures to ensure orderly and correct voting operations.

(6) The chairman will decide the deployment of guards around the voting center.

**Article 50.** (1) At 0500 on election day the chairman of the electoral bureau of the voting center, in the presence of the other members, will check the ballot boxes, the existence of electoral lists, ballots, and stamps, after which he will close and seal the ballot boxes and apply the control stamp of the voting center.

(2) The chairman is obligated to ensure the application of the control stamp on the ballots, too.

**Article 51.** (1) The chairman of the electoral bureau of the voting center is obligated to take the necessary measures to ensure that the elections proceed in good conditions.

(2) In this respect his powers extend outside the voting site itself, to the yard, the places of access to the yard, around the voting center, and to streets and public squares up to a distance of 500 m.

(3) Aside from the members of the electoral bureau of the voting center, the candidates, and accredited delegates,

no other person may stand about in public places in the voting area or the voting premises for longer than is necessary to cast one's ballot.

(4) Delegates will be accredited by the Central Electoral Bureau for the Romanian press, cinematography, radio, and television and by the Foreign Ministry for foreign press, cinematography, radio, and television or for representatives of international organizations upon their request. The accreditation will be withdrawn should accreditation conditions have been violated.

(5) Accredited delegates may be present at electoral operations only if they show their accreditation document. They may not intervene in any way in the organization and holding of the elections, having only the right to notify the electoral bureau chairman of any irregularity spotted. Any act of propaganda for or against a party, political group, coalition, or candidate and any attempt to influence a voter's choice, as well as any violation of the accreditation document will incur legal sanctions, the electoral bureau that noticed the violation will suspend the accreditation, and on ballot day the person in question will be immediately removed from the voting center.

(6) In order to maintain order, the chairman of the electoral bureau of the voting center will have at his disposal the necessary means of order provided by prefects in conjunction with the Ministry of the Interior.

(7) Throughout the duration of the voting, the members of the electoral bureaus and accredited persons may not wear pins, insignia, or other symbols of electoral propaganda.

**Article 52.** The voting will open at 0600 and will continue until 2100, when the voting centers will close. The chairman of the electoral bureau of a voting center may exceptionally extend the voting after 2100, but no later than 2400, with the approval of the district electoral bureau.

**Article 53.** (1) The voters may vote at the voting center in their neighborhood or at voting centers organized in keeping with Article 19 and 20. Voters who vote at centers organized as per Article 19 and 20 will be entered on special electoral lists.

(2) Voters who on election day find themselves in a locality other than the one in which they appear on the electoral lists may exercise their right to vote at any voting center, where they will be put on a special electoral list by the electoral bureau of the voting center.

(3) The provisions of Paragraph (2) will also apply to Romanian citizens residing abroad, who are in the country on election day, on the basis of their passport.

**Article 54.** (1) Voters will have access to the voting hall in batches as large as there are booths. Each person will produce his voter card and ID to the electoral bureau of the voting center which, after checking it against the electoral list or, if necessary, entering it on the special

electoral list envisaged in Article 53, will hand out ballots and the voting stamp, for which the person will sign the electoral list. If a voter shows up with a duplicate of the voter card, the electoral bureau of the voting center will make a mention of it on the electoral list.

(2) Voters who, in keeping with Article 16 Paragraph (2) letter c) get their voter card at the voting center, will sign for its receipt in the report drafted when mayors delivered voter cards not picked up.

(3) If, for reasons ascertained by the chairman of the voting center bureau, the voter cannot sign the electoral list, the fact will be mentioned on the list and verified by the signature of another member of the electoral bureau.

(4) Voters will cast their ballot separately, in closed booths, by applying the "Voted" stamp inside the rectangle containing the list of candidates or the first and last name of the independent candidate for whom they are voting.

(5) The "Voted" stamp must be sized so as to be smaller than the rectangle.

(6) After casting their vote, the voters will fold the ballots with the blank page bearing the control stamp on the outside, and will put them in the ballot box, making sure that they do not open.

(7) Wrongly folding the ballot will not make it void.

(8) Should the ballot open by mistake, it may be cancelled at the request of the voter and another ballot may be issued, only once; a mention of it will be made in the report on the voting operations.

(9) The stamp handed out for voting will be returned to the chairman, after which he will apply it on the voter's card against the spot corresponding to the number of the electoral round.

(10) The chairman may take measures to ensure that a voter does not remain an inordinate amount of time in the booth.

**Article 55.** The chairman and members of the electoral bureaus of voting centers and the persons in charge of order will vote at the center at which they are working, after being entered on the special electoral list envisaged in Article 53.

**Article 56.** (1) The candidates and any voter are entitled to question the identity of a voter. In such a case, the voter's identity will be established by the chairman by any legal means.

(2) If the objection is justified, the chairman will stop the contested voter from voting, will note the fact in a report, and will notify the police authorities of this situation.

**Article 57.** (1) The chairman of the electoral bureau of the voting center may suspend the voting for serious reasons.

(2) The voting may be stopped for no more than one hour and the fact will be announced by a notice posted on the door of the voting center at least one hour previously. The total time of suspended voting may not exceed two hours.

(3) While the voting is suspended the ballot boxes, stamps, ballots, and other documents and materiel of the electoral bureau will be kept under permanent watch and the bureau members will not be allowed to leave the premises all at once.

(4) Persons who are attending the voting on the basis of Article 51 Paragraph (3) may not be made to leave the premises all at once.

**Article 58.** (1) The presence of any person in the voting booth other than the voter, is forbidden.

(2) A voter who, for serious reasons ascertained by the chairman of the electoral bureau of the voting center, cannot vote by himself, is entitled to call a companion of his choice into the booth to help him. The latter may not be an observer or a member of the electoral bureau of the voting center.

**Article 59.** In the case of voters who are not ambulatory for reasons of sickness or invalidity, at their request or at the request of the management of the health or social relief institution in which they are confined, the chairman of the electoral bureau of the voting center will designate a number of bureau members to take a special ballot box and the necessary voting materiel to the institution in question for the voter to cast his ballot.

**Article 60.** At 2100, or at the time by which the voting was allowed to be extended in keeping with Article 52, the chairman of the electoral bureau of the voting center will declare the voting closed and order the closing of the voting center.

## CHAPTER IX Establishing the Results of the Election

### Section 1: Ascertaining the Balloting Results at Voting Centers

**Article 61.** (1) After the closing of the voting, the chairman of the electoral bureau of the voting center, in the presence of the bureau members and, according to case, candidates and persons accredited to attend the voting, will proceed to taking an inventory of and sealing the "Voted" stamps; counting and cancelling unused ballots; checking the seals on the ballot boxes, and after all those operations are completed, opening the ballot boxes.

(2) The chairman will open each ballot and read aloud the list of candidates to which the vote was given or, according to case, the first and last name of the independent candidate to whom the vote was given, and will show the ballot to those present. The open ballots will be

arranged by parties, political groups, coalitions, and independent candidates and will be separately counted and bundled up.

(3) Ballots not bearing the control stamp of the voting center; ballots of a different pattern than that legally approved; ballots not bearing the "Voted" stamp or on which the stamp was applied in several rectangles, will be voided. The ballot will be valid in cases in which, although the stamp exceeded the outline of the rectangle, the voter's choice is evident.

(4) Void ballots will not be counted among the valid votes.

(5) The results of the voting for the Chamber of Deputies and Senate will be entered in two separate tables. Each table will be kept by one member of the electoral bureau of the voting center designated by the chairman. If candidates are also present at the time the results are entered, they are entitled to also keep a table for each of the Parliament Houses.

(6) The tables envisaged in Paragraph (5) will show the void ballots, the lists of candidates or the first and last names of independent candidates, and the valid ballots cast for each.

**Article 62.** (1) After the opening of the ballot boxes and the counting of the ballots, the chairman of the electoral bureau of the voting center will make a report each for the Chamber of Deputies and Senate, in two copies, which will feature:

- a) Number of voters according to the permanent electoral lists;
- b) Number of voters who turned out to vote; the distribution of this number of voters between the permanent electoral list and the special list;
- c) The total number of valid ballots cast;
- d) Number of void ballots;
- e) Number of valid votes received by each list of candidates or each independent candidate;
- f) A short exposition of complaints and objections, how they were settled, and complaints filed with the district electoral bureau for solving;
- g) The condition of the ballot box seals at the closing of the voting;
- h) The number of ballots received;
- i) The number of ballots left unused and cancelled.

(2) The reports will be signed by the bureau chairman and members and will bear the control stamp. The signatures will be applied against the first and last names and, where applicable, the political affiliation of each member.

(3) Members of electoral bureaus of voting centers who signed the report will be issued, upon request, a copy certified by all those who signed the original; the request must be made before the report has been drafted.

(4) Absence of the signature of some bureau members will not affect the validity of the report. The chairman will make a note of the reasons that precluded the signature.

**Article 63.** (1) Throughout the voting operations or the opening of the ballot boxes objections or complaints may be made against them by the candidates, members of the electoral bureau, and until the closing of the voting, by voters.

(2) Objections will be made in writing and will be handed to the chairman of the electoral bureau of the voting center, who will issue a proof of receipt.

(3) The chairman of the electoral bureau of the voting center will immediately pass a ruling on objections whose solution cannot wait.

**Article 64.** (1) One file each will be opened for the Chamber of Deputies and Senate, which will include: reports and challenges regarding the center's voting operations, void ballots, and contested ballots. The sealed and stamped files will be sent to the district electoral bureau by the chairman and members of the electoral bureau of the voting center under military guard, within at most 24 hours of the closing of the voting center.

(2) Within 24 hours of receipt of the file, the district electoral bureau will send one copy of the report to the court in whose jurisdiction the electoral district is located; parties, political groups, and independent candidates may obtain legalized copies of it.

## Section 2 Establishing Electoral Districts Voting Results

**Article 65.** (1) After receiving the reports with the results of the vote count, the district electoral bureau will draft a report each for the Chamber of Deputies and Senate showing the valid ballots cast for each party, political group, or coalition, which within 24 hours it will send to the Central Electoral Bureau.

(2) After receiving from the Central Electoral Bureau a note on the parties, political groups, or coalitions that did not rally at least 3 percent of the valid ballots cast throughout the country, the district electoral bureaus will proceed, in keeping with Article 66, to assign the deputy and senator seats.

(3) The work of district electoral bureaus may be attended by candidates and accredited persons.

**Article 66.** (1) Seats will be assigned to the candidates on the lists counting only the parties, political groups, or coalitions that rallied at least 3 percent of the validly

expressed votes throughout the country, separately for the Chamber of Deputies and Senate.

(2) The seats will be assigned after the communication of the Central Electoral Bureau regarding the parties, political groups, and coalitions that rallied at least three percent of the total number of valid votes throughout the country, separately for the Chamber of Deputies and Senate.

(3) The distribution and assignment of deputy and senator seats will be done in two stages: at the level of each electoral district and at national level.

(4) At the electoral district level, the electoral bureau will establish the electoral coefficient of the district, separately for the Chamber of Deputies and Senate, by dividing the total number of valid votes given for all the lists of candidates of the parties, political groups, and coalitions which met the condition envisaged in Paragraph (1) and for independent candidates by the number of deputies and senators to be elected from that district; as many seats will be allocated to each list as the electoral district coefficient goes into the valid votes cast for that list; the seats will be allocated by the district electoral bureau in the order in which the candidates appeared on the list; independent candidates will be assigned one seat each if they won a number of valid votes at least equal to the electoral coefficient for deputies or senators, as the case may be. The remaining votes, i.e., those not used or below the electoral coefficient, received by lists of candidates of parties, political groups, and coalitions that met the conditions envisaged in Paragraph (1), and the seats that could not be assigned by the district electoral bureau will be communicated by the latter to the Central Electoral Bureau for the purpose of being assigned at the centralized level.

(5) The Central Electoral Bureau will add up for the entire country, separately for the Chamber of Deputies and Senate, the unutilized votes or those below the district electoral coefficient from all the electoral districts, for each party, political group, or coalition that meets the condition envisaged in Paragraph (1); the number of votes thus won by each party, political group, or coalition will be divided by 1, 2, 3, 4, etc., whereby as many division operations will be made as there were seats left unassigned at the level of electoral districts; the quotients resulting from the division, regardless of the list from which they come, will be classified in descending order down to the equivalent of the number of unassigned seats; the smallest quotient will be the national electoral coefficient for deputies and senators separately; each party, political group, or coalition will be allocated as many deputy or senatorial seats as the national electoral coefficient goes into the total number of valid votes given for the respective party, political group, or coalition, resulting from the nationwide addition of unutilized votes and votes below the district electoral coefficient.

(6) The deployment of the seats allocated by electoral districts will be made by the Central Electoral Bureau as follows:

a) For each party, political group, or coalition that won seats according to Paragraph (5), the number of unutilized votes or votes below the district electoral coefficient from each electoral district will be divided by the total number of valid votes given to that party, political group, or coalition taken into calculation for the allocation of seats throughout the country.

The result thus obtained for each district will be multiplied by the number of seats due to the party, political group, or coalition. The data obtained will be arranged in descending order at national level and separately in descending order for each district.

For each district the first parties, political groups, or coalitions will be taken into calculation, within the limit of the seats left to be distributed in the respective district. The last number in this operation will be the number to be distributed in that district.

Seats will then be distributed by districts in the order of parties, political groups, and coalitions and of the districts on the list set in order at national level, as follows: the first number from the list set in order at national level will be divided by the divider of the district from which it originates and the result will be the number of seats due to it in the respective district. The procedure will then be repeated for the following numbers on the list set in order at national level.

If the number of seats due to a party, political group, or coalition or from an electoral district has been exhausted, the operation will be continued without them.

If the number from the list set in order at national level is lower than the district divider, one seat will be assigned;

b) If seats cannot be awarded in the order resulting from the provisions of letter a), the Central Electoral Bureau will take into consideration the electoral district in which the party, political group, or coalition has the largest number of candidates or one candidate to whom seats were not assigned, and if even thus seats remain unindividualized in districts, the electoral district in which the respective party, political group, or coalition had the most unutilized votes or the most votes below the district electoral coefficient; [as published]

c) If after the implementation of the provisions under a) and b) seats are still left not assigned by districts, the Central Electoral Bureau will establish them on the basis of the accord between the parties, political groups, or coalitions entitled to those votes in accordance with Paragraph (5); in the absence of an accord, by drawing, within 24 hours of the closing of the previous operations.



(7) The seats deployed on the lists of candidates in keeping with Paragraph (6) will be assigned to candidates by the district electoral bureau in the order in which they appear on the list.

(8) The district electoral bureau will issue a certificate proving the election of the deputies and senators to whom seats were assigned, within 24 hours of the closing of each assignment operation.

(9) Candidates appearing on lists, who were not elected, will be declared alternate candidates on the respective lists. Should deputy or senatorial seats elected on candidates' lists become vacant, the alternates will fill the vacancies in the order in which they appear on the lists if by the date of validation the parties or political groups on whose lists the alternate candidates appeared confirm in writing that they belong to them.

**Article 67.** (1) The district electoral bureau will separately draft a report for the Chamber of Deputies and one for the Senate on all the electoral operations, vote computation, establishment of the results of the election, and seat assignment.

(2) The report must include:

a) The number of voters in the electoral districts in accordance with the permanent electoral lists;

b) The total number of voters who turned out; the distribution of that number between voters on permanent lists and on special lists;

c) Total number of valid votes cast;

d) Total number of valid votes cast for each list of candidates and for each independent candidate;

e) Number of void ballots;

f) Manner of assignment of mandates, according to Article 66, the first and last names of the candidates elected, and the party, political group, or coalition that nominated them, as the case may be;

g) The seats that could not be assigned at the level of electoral district, and the valid votes that are to be computed, according to Article 66, for the entire country;

h) A short report on objections, challenges, and decisions taken by the district electoral bureau.

(3) The report, together with the objections, challenges, and reports received from the electoral bureau of the voting center, arranged in a file closed, sealed, and signed by the electoral bureau members, will be sent under military guard to the Central Electoral Bureau within at most 48 hours of receiving the Central Electoral Bureau communication concerning the deployment of the seats assigned by electoral districts in a centralized manner throughout the country.

**Article 68.** (1) The Central Electoral Bureau will resolve the objections and challenges filed, after which it will draft a report each for the Chamber of Deputies and Senate, including at national level:

a) Total number of voters according to the permanent electoral lists;

b) Total number of voters who turned out to vote;

c) Total number of valid ballots cast;

d) Total number of void ballots;

e) Findings regarding the manner in which district electoral bureaus applied the provisions of Article 66 Paragraph (4);

f) National distribution of seats according to Article 66 Paragraph (5) and their deployment by electoral districts according to Paragraph (6) of the same article;

g) Civic organizations belonging to national minorities which participated in the election but did not win any deputy or senator seat; total valid votes cast for the lists of each of those organizations and establishment of the organizations entitled to one deputy seat in accordance with Article 4; first and last name of the first candidate on the list of the organization entitled to a deputy seat, which won the largest number of votes; if the organization lists won an equal number of votes, the seat will be assigned by drawing;

h) The manner in which the objections and challenges received were settled.

(2) The reports will be signed by the chairman and other bureau members in whose presence they were drafted and will be sent to the Chamber of Deputies and Senate for the purpose of validating the election, together with the files put together by district electoral bureaus.

(3) For the purpose of the validation, the deputies and senators will file a property declaration with the doyen or acting president. The declaration is confidential and will be filed with a proof of deposition.

(4) The schedule used by the Central Electoral Bureau for the centralized distribution of seats and their deployment by electoral districts will be endorsed by the Central Electoral Bureau and constitutes an annex to the report filed for the validation of the seats.

**Article 69.** The Central Electoral Bureau will publish the results of the election in the press and in Romania's MONITORUL OFICIAL in real time, with a view to complying with the provisions of Article 60 Paragraph (3) of the Constitution.

#### CHAPTER X: Partial Elections

**Article 70.** (1) Should the elections be cancelled in one electoral district, in accordance with Article 25 Paragraph (1) letter f), and should a vacant deputy or senator seat be impossible to fill with the alternate, partial elections will be organized.

(2) Partial elections will not be organized if the deputy or senator seat became vacant in the 12 months prior to the expiration of the mandate of the Chambers of Deputies and Senate envisaged in Article 60 Paragraph (1) of the Constitution.

**Article 71.** (1) If partial elections are held in the wake of cancelled elections in an electoral district, they will proceed on the basis of the same candidacies, electoral bureaus, and voting centers on the third Sunday after the cancellation of the initial elections.

(2) Candidates guilty of fraud may not participate in the new round.

(3) Partial elections organized when a deputy or senator seat becomes vacant will be governed by the due implementation of the present law within at most three months of the government being notified by the speaker of the Chamber of Deputies or the president of the Senate, as the case may be, regarding the fulfillment of the conditions envisaged in Article 70.

(4) If the partial elections envisaged in Paragraph (3) are organized in only one electoral district, no Central Electoral Bureau will be established, and its duties will be carried out by the district electoral bureau.

(5) Only voters appearing on the permanent electoral lists of the localities included in the electoral district where the elections are organized will participate in the partial elections.

#### CHAPTER XI: Contraventions and Violations

**Article 72.** The following acts constitute contraventions, unless by law they are violations:

a) Knowingly entering a voter on several electoral lists in his place of residence; entering fictitious persons on electoral lists or persons not entitled to vote; having the list signed by supporters in violation of the provisions of Article 33, and violating the terms regarding the posting of lists of candidates and independent candidates or the use of electoral symbols;

b) Unjustified refusal to issue a voter card at the expressed request of the interested person, or failure to fill out a voter card in compliance with the rules;

c) Failure by the organizers to take the necessary measures for ensuring orderly electoral meetings, and the distribution and consumption of alcoholic drinks at such meetings;

d) Destroying, damaging, soiling, overwriting, or any other form of defacing electoral lists, posted platform-programs, or any other printed electoral posters and propaganda;

e) Posting electoral propaganda anywhere other than in the places allowed or in violation of the provisions of the present law;

f) Any citizen's permission to be entered on several lists of candidates;

g) Failure by members of district electoral bureaus to announce candidacies publicly;

h) Refusal to allow candidates or accredited persons to have access to voting centers or to attend the voting operations;

i) Refusal to comply with the orders of the chairman of the electoral bureau of the voting center regarding ensuring order on the voting premises and its surroundings;

j) Unjustified refusal to enter a voter on the special list or to hand a ballot and stamp to a voter who has signed the electoral list, or handing a ballot to a voter who did not show his voter card and ID or who refused to sign for them in the electoral list on which he appears;

k) Having reports made by the electoral bureaus of voting centers in violation of the provisions of the present law;

l) Carrying on electoral propaganda after its closing and advising voters on election day at the voting centers or in the places envisaged in Article 51 Paragraph (2) to vote or not to vote for a certain party, political group, coalition, or independent candidate;

m) Accepting electoral campaign contributions other than through a financial agent, or violation by the latter of the obligations incumbent on him in keeping with Article 45 Paragraph (4);

n) The wearing of pins, insignia, or other symbols of electoral propaganda by members of the voting center bureaus or by accredited persons during the voting;

o) Violation by the members of electoral bureaus of their obligation to participate in the work of those bureaus.

**Article 73.** The contraventions envisaged in Article 72 letters d), e), h), n), and o) will be fined between 5,000-15,000 lei; those under letters f), g), k), l), and m) will be fined 15,000-45,000 lei, and those under letters a), b), c), i), and j) will be punished by one to six months contraventional imprisonment or a fine between 45,000-100,000 lei.

**Article 74.** (1) The contraventions envisaged under Article 72 will be ascertained by a report made by:

a) Police officers and noncommissioned officers, for the deeds envisaged under letters a), b), c), d), e), g), h), i), j), l), and m);

b) Mayors and their authorized representatives for the deeds listed under d), e), and m);

c) The chairman of the district electoral bureau for the deeds listed under f), k), l), n), and o).

(2) For the contraventions envisaged in Article 72 letters d), e), f), g), h), k), l), m), n), and o) the reporting official will also determine the fine in his report.

(3) The contraventions envisaged in the previous paragraph are also subject to the provisions of Law No. 32/1963, with the exception of Article 26.

(4) The report ascertaining the contraventions listed in Article 72 letters a), b), c), i), and j) will be sent to the court in whose jurisdiction the contravention was committed; the court will pronounce the punishment in keeping with the terms of Law No. 61/1991.

**Article 75.** (1) Using any means to interfere with the free exercise of the right to vote or be elected will be punished by six months to five years imprisonment and deprivation of certain rights.

(2) In cases in which the deeds envisaged in Paragraph (1) caused bodily damage or health impairment requiring more than 60 days of care to heal, or one of the following consequences: loss of a sense or an organ or their ceasing to function, a physical or emotional infirmity, esthetic damage, loss of a pregnancy, or threat to a person's life, the punishment will be three to 10 years imprisonment.

(3) The attempt to commit the offense envisaged in Paragraph (1) and (2) will be punishable.

**Article 76.** (1) Any violation of the secrecy of the vote by members of the electoral bureau of the voting center or other persons will be punished by six months to three years imprisonment.

(2) The attempt is punishable.

**Article 77.** (1) Promising, offering, or giving money or other advantages in order to persuade a voter to vote or not to vote for a certain list of candidates or independent candidate, and acceptance by the voter for the same purpose will be punished by six months to five years imprisonment.

(2) If the deed envisaged under Paragraph (1) was committed by a domestic observer, the punishment will be two to seven years imprisonment.

(3) The punishment envisaged under Paragraph (1) is also applicable to the person who votes without being entitled to vote and to voters who vote twice or several times on election day. The attempt is also punishable.

**Article 78.** (1) Use of a void voter card or a counterfeit voter card or ballot, putting more ballots into the ballot box than a voter is entitled to, or falsifying electoral bureau documents by any method will be punished by two to seven years imprisonment.

(2) The attempt is also punishable.

**Article 79.** (1) Any attack on the voting center premises, the theft of a ballot box or electoral documents will be punished by two to seven years imprisonment, unless the deed constitutes a more serious offence.

(2) The attempt is also punishable.

**Article 80.** Opening ballot boxes before the time set for closing the voting will be punished by one to five years imprisonment.

**Article 81.** Penal action will be set in motion ex officio for the offences listed in Article 75-80.

**Article 82.** Gains earmarked for, used, or obtained from the contraventions envisaged in Article 72 or from the violations envisaged in Article 75-80 will be confiscated.

#### CHAPTER XII: Provisional and Final Provisions

**Article 83.** (1) The expenditures involved in the electoral operations will be borne from the state budget.

(2) The offices and equipment of the Central Electoral Bureau will be provided by the government, those of district electoral bureaus by the prefects, and those of voting centers by mayors and prefects together.

(3) Any documents drawn up in the exercise of the electoral rights envisaged in the present law are exempted from stamp tax payment.

**Article 84.** (1) In order to assist the electoral bureaus in their activities, the Romanian government will provide statisticians and the necessary auxiliary technical personnel.

(2) Throughout the period in which the electoral bureaus are operating their members, the statisticians, and the auxiliary technical personnel, employed under labor contract, will be viewed as being on temporary duty.

**Article 85.** (1) The courts will handle objections, challenges, or any other requests envisaged in the present law in accordance with the rules established by law for presidential ruling, with the obligatory participation of a prosecutor.

(2) There are no means of appealing the final decisions pronounced by the courts in compliance with the present law.

**Article 86.** (1) The periods of time envisaged in the present law will be calculated from the day when they begin to run until the day they mature, even if they are not working days.

(2) Throughout the period of the elections the electoral bureaus and the courts will provide ongoing services so that the citizens can exercise their electoral rights.

**Article 87.** (1) Persons sentenced by court decision to forfeit their electoral rights will not participate in the election and will not be counted in establishing the total number of voters.

(2) The provisions of Article 59 on special ballot boxes will be applicable to persons detained in preventive arrest or serving a contraventional sentence involving freedom deprivation.

**Article 88.** (1) The prefects will verify the correct implementation by the mayors of the obligations incumbent on them under the present law; should electoral fraud be ascertained, they will notify the competent bodies.

(2) Also, should the prefects ascertain that a voter was not registered on or was not deleted from electoral lists in accordance with the law, or that district electoral bureaus or of voting centers were not legally formed, they will draft objections and challenges, which will be resolved in keeping with the provisions of the present law.

**Article 89.** For the purposes of the present law, an identity document is an identity card, a certificate serving in lieu of the identity card, or a diplomatic or service passport; for conscripts and military cadets, that is their military service card.

**Article 90.** The elections for the new Parliament will take place at a date to be decided by law.

**Article 91.** For the 1992 elections, one percentage point of the total valid votes cast in the entire country for each member of a coalition, beginning with the second party or political group, will be added to the 3-percent minimum envisaged in Article 66 Paragraph (1) for electoral coalitions, but not to exceed 8 percent of such votes.

**Article 92.** (1) For the 1992 elections, the voting will take place on the basis of the electoral lists used in local elections, updated within 15 days of the date on which the election date was set, and on the basis of identity cards bearing the control stamp of the voting center over the date of voting, written in ink.

(2) By 31 December 1992 the government will ensure the printing, filling, and issuing of all voter cards for citizens entitled to vote appearing on the electoral lists of the localities in which they reside.

**Annex No. 1**

(3) Voter cards for conscripts will be sent by the mayor to units' commanding officers, who will distribute them against signature.

(4) For the 1992 elections, if stapling the ballots is not possible, they will be placed in the ballot box after the voters put them in envelopes suited to their size provided by the electoral bureau of the voting center.

**Article 93.** (1) The provisions of Article 51 Paragraph (3) will also apply to the delegates accredited by the Central Electoral Bureau as domestic observers, only for the 1992 elections. Only voters authorized by a nongovernment organization whose sole purpose is to defend human rights and which was legally founded before the opening of the electoral campaign, may be accredited as domestic observers.

(2) Persons designated as domestic observers may not be members of any party or political group. The accreditation is valid for only one voting center. The Central Electoral Bureau may accredit only one domestic observer to a voting center on the basis of the latter's written pledge to strictly observe the terms of accreditation. The declaration will be made at one's own responsibility and constitutes a public act, with all the legal consequences. The terms of accreditation will be stated in the document of accreditation; should there be several persons authorized for the same center, the accreditation will be decided by drawing.

(3) The nongovernmental organizations envisaged in Paragraph (1) are duly subject to the provisions of Article 45 Paragraph (93) and Article 51 Paragraph (5).

**Article 94.** Regarding electoral district No. 42, the powers envisaged in the present law for the country court will be discharged by the Bucharest Municipal Tribunal.

This law was passed by the Chamber of Deputies and Senate at their joint session of 17 June 1992, in compliance with the provisions of Article 74 Paragraph (1) and Article 76 Paragraph (2) of Romania's Constitution.

—Dan Martian, Speaker of the Chamber of Deputies

—Academician Alexandru Birladeanu, Speaker of the Senate

Bucharest, 15 July 1992  
No. 68

**Numbering of and Number of Seats  
for Each Electoral District**

	Location	Number of Seats	
		Deputy Seats	Senator Seats
Electoral District No. 1	Alba County	6	3
Electoral District No. 2	Arad County	7	3
Electoral District No. 3	Arges County	10	4
Electoral District No. 4	Bacau County	11	5

**Numbering of and Number of Seats  
for Each Electoral District (Continued)**

	Location	Number of Seats	
		Deputy Seats	Senator Seats
Electoral District No. 5	Bihor County	9	4
Electoral District No. 6	Bistrita-Nasaud County	5	2
Electoral District No. 7	Botosani County	7	3
Electoral District No. 8	Brasov County	9	4
Electoral District No. 9	Braila County	6	2
Electoral District No. 19	Buzau County	7	3
Electoral District No. 11	Caras-Severin County	5	2
Electoral District No. 12	Calarasi County	5	2
Electoral District No. 13	Cluj County	11	5
Electoral District No. 14	Constanta County	11	5
Electoral District No. 15	Covasna County	4	2
Electoral District No. 16	Dimbovita County	8	3
Electoral District No. 17	Dolj County	11	5
Electoral District No. 18	Galati County	9	4
Electoral District No. 19	Giurgiu County	4	2
Electoral District No. 20	Gorj County	6	3
Electoral District No. 21	Harghita County	5	2
Electoral District No. 22	Hunedoara County	8	3
Electoral District No. 23	Ialomita County	4	2
Electoral District No. 24	Iasi County	12	5
Electoral District No. 25	Maramures County	8	3
Electoral District No. 26	MEhedinti County	5	2
Electoral District No. 27	Mures County	9	4
Electoral District No. 28	Neamt County	8	4
Electoral District No. 29	Olt County	7	3
Electoral District No. 30	Prahova County	12	5
Electoral District No. 31	Satu Mare County	6	3
Electoral District No. 32	Salaj County	4	2
Electoral District No. 33	Sibiu County	6	3
Electoral District No. 34	Suceava County	10	4
Electoral District No. 35	Teleorman County	7	3
Electoral District No. 36	Timis County	10	4
Electoral District No. 37	Tulcea County	4	2
Electoral District No. 38	Vaslui County	7	3
Electoral District No. 39	Vilcea County	6	3
Electoral District No. 40	Vrancea County	6	2
Electoral District No. 41	Bucharest Municipality	29	13
Electoral District No. 42	Ilfov Agricultural Sector	4	2
<b>Total</b>		<b>328</b>	<b>143</b>



**Annex No. 2**

[Model of a voter card; first page is divided into thirds; first third reads:]

**Voter Card**

Issued by [locality mayor] .....

Signature and place for stamp [mayor's signature and stamp of the local council] ..... for [first and last name of holder] .....

Signature .....

Address .....

Not Conveyable

[The two other thirds of the page are divided into four rectangles, which read:]

Round No. 1 Round No. 2

Round No. 3 Round No. 4

[Mention at the bottom of last two thirds:]

Counted as of the first round after the 1992 elections

[Back page divided into eight rectangles:]

Round No. 5 Round No. 6 Round No. 9 Round No. 10

Round No. 7 Round No. 8 Round No. 11 Round No. 12

[Mention at bottom of the page:]

Counted as of first round after 1992 elections

Note: 1. The size of the voter card is: 11 cm wide x 15 cm long; the letters are straight block 10; the card will be filled in black or blue ink; the second side of the voter card is on the back of the first.

2. In the case of partial elections, the rounds will be deducted from all the voter cards, i.e., those of voters residing in localities located in electoral district were such elections did not take place.

3. Once the number of rounds is exhausted, the government will issue new voter cards, changing only the year of the first round accordingly.

4. When a copy is issued, under the title Voter Card will be typed the note "Copy No....," indicating the copy number in the order of issue.

**Annex No. 3**

**Model Ballot for Election of the Chamber of Deputies**

**Ballot for Election of the Chamber of Deputies**

Electoral District No. ....

Election date .....

[reverse side of ballot divided into two large and two smaller rectangles, first carrying the numbers 1) 2) 3) in it, and last the numbers 4) 5) 6)]

Note: 1) Fill in full name of the party, political group, or coalition, in the order decided by law.

2) Fill in electoral symbol; a three-letter distance to be left between the name of the party, political group, or coalition, and the electoral symbol. The electoral symbol will be printed within a 2.5 cm x 2.5 cm. graphic space.

3) First and last name of candidates, in the same order as on the list of candidates entered, and if required, political affiliation consisting of the initials of the party or political group, after which the rectangle is to be closed.

4) Fill out "Independent candidate;" one distinct rectangle is to be printed for each independent candidate, at the end of the ballot, in the order decided by law.

5) Fill out electoral symbol.

6) Fill out first and last name of independent candidate.

7) All first and last names and words written inside rectangles will be printed in straight no. 10 block letters.

**Model Ballot for the Election of the Senate**

**Ballot for the Election of the Senate**

I. Electoral district No. ....

II. Election date.....

[Reverse side of ballot identical to that for the election of the Chamber of Deputies]

[new page]

III. Model for the Voting Center Stamp

[round stamp; around the edge it reads: Electoral District; in the middle: Voting Center No.]

IV. Model for the "Voted" Stamp

[round stamp; inside, in block letters: VOTED, underneath number of electoral district]

**Law on Audiovisual Communication**

92BA1065A Bucharest MONITORUL OFICIAL  
in Romanian 25 May 92 pp 1-5

[Text] The Parliament of Romania adopts the present law.

**CHAPTER I. General Provisions**

Article 1. (1) The free expression of ideas and opinions, as well as the free communication of information by means of radio and television are guaranteed by law, in the spirit of constitutional rights and liberties.

(2) Public and private means of audiovisual information are required to assure the proper information of public opinion.

(3) Censorship of any kind is forbidden.

(4) The good-faith selection of audiovisual information by persons responsible for its contents does not constitute censorship and can be exercised under the terms of the present law.

Article 2. (1) The freedom of audiovisual expression cannot cause prejudice to the dignity, honor, or private life of individuals, nor to the right to their self-image.

(2) Disparagement of the country and of the nation, exhortation to war of aggression, to national, racial, class, or religious hate, incitement to discrimination, territorial separatism, or public violence, are forbidden by law.

(3) It is forbidden to broadcast information, which according to law is of a secret nature or can cause prejudice to national security.

(4) It is similarly forbidden to program and broadcast obscene expressions inconsistent with good moral standards.

(5) Under the terms of the law, and depending on circumstances, civil responsibility for the content of information transmitted by means of audiovisual communication, which causes material or moral damages, falls upon the producer, author, broadcast license holder, or owner of the station through which the communication was transmitted.

Article 3. Radio or television advertising must be designed so as to be readily distinguished from other programs.

Article 4. (1) Persons who consider themselves injured in one of their rights or in a legitimate, moral, or material interest by an audiovisual communication, have the right to request the necessary correction, and if the latter is refused, have the right to respond. The correction and response will be broadcast under the same conditions under which the right or interest has been injured.

(2) Responsibility for broadcasting the correction or for assuring the right to a response falls upon the broadcast license holder of the station through which the injury was caused.

Article 5. (1) The legal entities which conceive, produce, and broadcast programs in the radio and television field, are public or private.

(2) Public legal entities are state institutions, autonomous management groups, or Romanian commercial companies exclusively capitalized by the state.

(3) Private legal entities are Romanian commercial companies with total or partial private, Romanian, or foreign capital.

(4) Public or private legal entities have the right to lease audiovisual communication networks owned by autonomous management groups or by commercial companies with a majority of state capital. Similarly, they may own broadcast stations and lines for program transmission. Program 1 of public television, as well as the programs of Radiodifuziunea Romana existing on the date of the law's publication, are exempted from leasing and privatization.

Article 6. (1) A public or private physical person or legal entity cannot be a direct or indirect investor or majority shareholder in more than one audiovisual communication company, and cannot hold more than 20 percent of the capital stock in others.

(2) Shares representing the capital stock of a company specifically authorized to operate an audiovisual communication service, can be no other than registered shares.

(3) Public legal entities stipulated in Article 41 are excepted from the provisions of Paragraph (1).

(4) Broadcast licenses are not issued to political parties or other political organizations, nor to public authorities.

Article 7. Cable distribution networks for audiovisual communications are the property of public or private Romanian legal entities.

Article 8. (1) Radio and television audiovisual communication is conducted on the basis of broadcast licenses and of authorization decisions issued under the terms of the present law.

(2) The broadcasting of programs through public networks owned by autonomous management groups in the telecommunications field, or through other broadcast stations, is conducted only on the basis of broadcast licenses that identify the respective networks or stations.

(3) Broadcast licenses for public legal entities stipulated in Article 41 are issued without competitive examination and without charge.

Article 9. The autonomous public services stipulated in Article 41 are obligated to transmit immediately and without charge, the notifications or public interest messages received from Parliament, the Romanian Presidency, or the Government.

Article 10. Legal entities operating on the basis of the present law are required to inform the public about:

a) The title, location, and name of their legal representatives and of three principal associates or members of the board of directors;

b) The audiovisual communication services they provide;

c) The name of their program or broadcast producer.

Article 11. The National Audiovisual Council is established as an autonomous public authority which exercises its functions according to the provisions of the present law.

## **CHAPTER II. Audiovisual Communication by Electromagnetic Radiation**

### **Section I. Broadcast Licenses**

Article 12. (1) Broadcast licenses include the nature of the information categories which can be the object of public broadcasting.

(2) Licenses are issued by the National Audiovisual Council following a competitive examination open to applicants who have received a preliminary technical approval from the Ministry of Communications. Approvals are given within 30 days of request.

(3) Conditions for participating in the examination and concrete criteria for selection of winners are made public by the National Audiovisual Council at least 45 days before the date of the examination.

(4) Selection criteria for broadcast licenses must assure opinion pluralism, equal treatment of participants, and program quality and diversification, encourage free competition, creativity, and national audiovisual production, illustrate the national culture, and provide independence and impartiality for the programs broadcast by public legal entities.

(5) Access of sociocultural, political, or religious organizations, and of other requestors to audiovisual programs will comply with the provisions of Paragraph (4) under the terms established by broadcast licenses.

Article 13. (1) The number of broadcast licenses for which the competitive examination is organized, is approved by the National Audiovisual Council with the authorization of the Ministry of Communications.

(2) In establishing the number of licenses, it is mandatory to comply with the technical requirements for transmission quality and with international agreements in the field of electromagnetic communication.

Article 14. (1) Broadcast licenses are issued for a period of five years for radio broadcasting and of seven years for television broadcasting. The licensing period starts from the date on which the authorization decision is obtained.

(2) Broadcast licenses are not transferable, and they can be modified only by the National Audiovisual Council under the terms stipulated in Article 12.

(3) A new competitive examination must be organized when the period expires.

Article 15. Except for the cases stipulated in Article 8 Paragraph (2), the right granted by a broadcast license lapses if within 30 days the license holder does not request that the technical operation authorization be issued, or if by his own fault, he exceeds the period for

issuing this authorization, as well as if he exceeds the period for which the license was issued.

### **Section II. Authorization Decisions**

Article 16. (1) Authorization decisions are granted by the National Audiovisual Council on the basis of broadcast licenses and of technical operation authorizations issued by the Ministry of Communications.

(2) Decisions are issued within five days from a requestor's presentation of a technical operation authorization. In the cases stipulated in Article 8 Paragraph (2), authorization decisions or broadcast licenses are published in MONITORUL OFICIAL AL ROMANIEI.

(3) Denials of authorization decisions are communicated within the period stipulated in Paragraph (2) and must be motivated.

(4) Disputes resulting from denials to issue authorization decisions are settled according to the Law on Administrative Disagreements.

Article 17. (1) The technical operation authorizations stipulated in Article 16 contain the technical specifications of the equipment, validation that the installations comply with these specifications, and the charges to be paid. In order to grant an authorization, the Ministry of Communications, together with the requestor, will establish the details and schedules for installing broadcast stations.

(2) Authorizations are issued within 15 days from the day the station is presented for measurements. The station must be installed within 18 months from the date the authorization is requested.

(3) The validity period of technical operation authorizations is stipulated in Article 14 Paragraph (1).

Article 18. For technical reasons, the Ministry of Communications can change the frequency stipulated in authorization decisions, while assuring equivalent reception quality as well as other ancillary technical characteristics, and without interrupting services.

(2) The changes are communicated to license holders and to the National Audiovisual Council 30 days before the effective date of the change.

### **Section III. Reception Authorization for Audiovisual Programs Transmitted by Satellite**

Article 19. (1) Audiovisual programs transmitted by satellite are received either with community installations that provide commercial distribution, or with individual installations.

(2) Authorization decisions for community reception are issued by the Ministry of Communications on the basis of access licenses granted by satellite owners or by the owners of the respective transmission facilities.

(3) Only installations whose models are issued authorizations by the Ministry of Communications can be produced, sold, and used for individual reception.

Article 20. It is forbidden to redistribute by cable for commercial purposes, or to retransmit by land-based electromagnetic radiation, programs received by owners of individual reception installations.

### **Chapter III. Authorization of Audiovisual Communication Distributed by Cable**

Article 21. Audiovisual communication services distributed by cable can be used to separately or cumulatively perform the following:

- a) Retransmit programs broadcast by land-based or satellite electromagnetic radiation;
- b) Retransmit audiovisual productions recorded by various means;
- c) Broadcast locally produced programs.

Article 22. (1) Broadcast licenses for radio or television transmission by cable are issued by the National Audiovisual Council and include the nature of the programs that will be distributed according to Article 21, complying with the provisions of Article 12 Paragraph (4).

(2) Licenses are issued within 15 days from the date of a request accompanied with a petition from the community in which the programs will be distributed, certified by the mayor of the community.

(3) The right granted by a broadcast license lapses if within one year from the date it is obtained, the license holder does not request that a preliminary technical operation authorization be issued, or if he does not assure the technical conditions for issuing this authorization in time, and if he exceeds the validity period of the latter.

Article 23. (1) The operation of cable distribution networks is authorized by the Ministry of Communications in two stages:

- a) A preliminary technical approval issued within 15 days on the basis of a broadcast license and network design planned by a unit whose technical competence is approved by the Ministry of Communications; the deadline for project completion will also be specified in the preliminary technical approval;
- b) An authorization decision issued within 30 days from request on the basis of technical verification of the completed installation.

(2) Authorization decisions also establish their period of validity, a period which cannot exceed 10 years; the validity of a decision can be extended at the holder's request.

Article 24. Cable audiovisual communications that belong to the Ministry of National Defense and the Ministry of the Interior are conducted under conditions established by them.

### **CHAPTER IV. National Audiovisual Council**

Article 25. (1) The National Audiovisual Council consists of 11 members appointed by:

- a) The president of Romania: two members;
- b) The Parliament of Romania, Senate, and Chamber of Deputies: three members each;
- c) The Government of Romania: three members, of which one is a telecommunications specialist, one a radio broadcast specialist, and one a television specialist.

(2) The members of the council are trustees of the public interest in audiovisual matters and do not represent the authority which has appointed them.

(3) The duration of their term is four years.

(4) Members of the National Audiovisual Council are appointed on a staggered schedule, every two years for one-half of them.

(5) In forming the first council, five of the members will be appointed for two years as follows:

- a) The president of Romania: one member;
- b) The Senate and the Chamber of Deputies: one member each;
- c) The Government: two members.

(6) If one position on the council becomes vacant or if a member is unavailable for more than 45 consecutive days, the authority that appointed him will designate a new member for the duration of the unexpired term.

(7) Members of the National Audiovisual Council will be recalled by the authority that appointed them if they violate the present law or commit penal offenses.

Article 26. (1) The president of the council is elected every four years and for a single term by secret vote of the majority of the members.

(2) If a president is not elected by a first vote with the majority stipulated in Paragraph (1), the voting is repeated for those who have obtained the largest number of votes, until a majority of at least six votes is obtained.

(3) In the absence of the president for more than four days, or in case of emergency, his functions are assumed by right by the oldest member of the council.

(4) If the presidency becomes vacant, an interim president is elected in accordance with Paragraphs (1) and (2); upon expiration of the term as interim president, the latter can be elected as president.

Article 27. The members of the council receive a salary at a level equivalent to undersecretaries of state, and the president at a level equivalent to the secretary of state.

Article 28. (1) The position of member of the National Audiovisual Council is incompatible with public or private functions, except teaching functions in higher education institutes.

(2) Members of the council and of the technical staff cannot belong to political parties or other political organizations.

Article 29. The council deliberates in the presence of at least nine of its members, and decisions are adopted by a vote of at least six members.

Article 30. The National Audiovisual Council has an income and expense budget which is an integral part of the state budget.

Article 31. In order to exercise the functions stipulated by law, the council formulates its own organization and operation regulations, and constitutes its own technical staff.

Article 32. (1) The National Audiovisual Council establishes compulsory regulations regarding: transmission of information about disasters and states of emergency, advertising, programming and the right to respond, sponsoring, conflict resolution, as well as regulations covering other aspects associated with the application of the present law.

(2) The council establishes the duration and presentation conditions of electoral campaign programs.

(3) Discussions regarding the award of broadcast licenses are public, and the decisions adopted as well as their motivations are published in MONITORUL OFICIAL AL ROMANIEI.

(4) Similarly publicized are the frequencies available for public radio and television transmission.

Article 33. (1) At the end of each year, the National Audiovisual Council writes a report of its activities and the manner in which authorization holders comply with the obligations stipulated in the present law.

(2) The report is presented to Parliament.

Article 34. The National Audiovisual Council performs its functions under the control of Parliament.

#### CHAPTER V. Responsibilities

Article 35. (1) The National Audiovisual Council controls compliance with the obligations of broadcast license holders, and the Ministry of Communications compliance with the technical conditions of authorization decisions.

(2) If these obligations are violated, the National Audiovisual Council or the Ministry of Communications,

depending on circumstances, addresses a public statement to the board of directors of the respective company, and orders compliance.

(3) Depending on circumstances, the National Audiovisual Council or the Ministry of Communications designates one of its members to present to the board of directors of the respective company the content of the statement and to decide together with the latter the measures necessary to halt the violations; the measures will be applied within a period established by decision of the National Audiovisual Council or the Ministry of Communications, depending on circumstances.

Article 36. (1) Upon a first violation of the provisions of the present law, the authorization holder is immediately issued a summons.

(2) The summons is made public through mass information means.

Article 37. (1) If the holder of an authorization or broadcast license does not respect his obligations and does not comply with the summons received, the National Audiovisual Council or the Ministry of Communications, depending on circumstances, can apply against him one of the following administrative sanctions according to the seriousness of the violation:

a) A fine of 2 percent to 5 percent of the previous year's revenues; if the holder is in his first year of activity, the fine is based on revenues at the time the sanction is applied;

b) Suspension of authorization for a period of one to three months;

c) Reduction of up to one-half of the total duration of the authorization or license;

d) Revocation of the authorization decision or broadcast license; revocation is compulsory if the holder ceases to broadcast in accordance with the schedule and duration stipulated in the decision, for reasons other than technical difficulties.

(2) A penalized person can appeal the sanction within 15 days from its communication, to the administrative disagreement court in whose territorial jurisdiction the violation took place.

Article 38. (1) The following acts constitute infractions and are punished with six months to two years of prison, or with a fine of 200,000 to 800,000 lei:

a) Program broadcasting or retransmission without authorization or broadcast license, or during the time these are suspended;

b) Broadcasting on another frequency, or at higher power, or from another location than those stipulated in the authorization decision, if the person committing the act does not immediately comply with the summons of the Ministry of Communications.



(2) Summons can be issued through any means of communication and through broadcasting by those who operate public radio and television networks. The broadcast is made at no cost within 30 minutes from request.

(3) In case of infractions stipulated under letter a), the court can also order confiscation of the technical equipment.

Article 39. Programming and broadcasting with violation of Article 2 Paragraphs (1) to (4) constitutes an infraction and is punished with prison:

- a) From six months to five years in the case of Paragraph (1);
- b) From two to seven years in the case of Paragraph (2);
- c) From three to 10 years in the case of Paragraph (3);
- d) From three months to two years, or a fine in the case of Paragraph (4).

Article 40. (1) If the acts stipulated in Article 38 and Article 39 are noted, the National Audiovisual Council or the Ministry of Communications, depending on circumstances, inform penal organizations and suspend the authorization decision until the matter is finally solved.

(2) At the request of the agency lodging the complaint, the attorney general can order that the technical equipment be disabled.

#### CHAPTER VI. Temporary and Final Provisions

Article 41. Radioteleviziunea Romana is reorganized by organic law, into autonomous public radio and television services.

Article 42. Taxes stipulated by law are collected for the activities performed by the National Audiovisual Council and the Ministry of Communications in connection with the award of authorization decisions.

Article 43. (1) Public legal entities other than those stipulated in Article 41, and autonomous as well as private management groups in the telecommunications field, who operate with authorization on the date the present law becomes effective, will be able to continue their activities for five months.

(2) After the period stipulated in Paragraph (1) is completed, activities will be able to continue only on the basis of authorizations stipulated in the present law.

Article 44. (1) The National Audiovisual Council will be constituted within 30 days from the date the present law becomes effective.

(2) The organization and operation costs of the National Audiovisual Council for 1992 are assured by the Government from budget reserves.

Article 45. Any dispositions to the contrary are abrogated on the date the present law becomes effective.

This law was adopted by the Senate at the 9 April 1992 session, in compliance with the provisions of Article 74 Paragraph (1) and Article 77 Paragraph (2) of the Romanian Constitution.

—President of the Senate Alexandru Birladeanu

—President of the Chamber of Deputies Dan Martian

Bucharest, 21 May 1992, No. 48

*This law was adopted by the Chamber of Deputies at the 19 May 1992 session, in compliance with the provisions of Article 74 Paragraph (1) and Article 77 Paragraph (2) of the Romanian Constitution.*

#### Law on State Border

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in Romanian 9 Jun 92 pp 1-9

[Law on the State Border of Romania, passed on 1 June 1992]

[Text] The Romanian Parliament passed the present law.

#### CHAPTER I General Provisions

**Article 1.** Romania's state border separates the territory of the Romanian State from the territories of the neighboring states and Romania's territorial water from the adjacent area. At the same time, on a vertical plane, the border delimitates the air space and underground of the Romanian State from the air space and underground of the neighboring states.

**Article 2.** Romania's state border is established by law in accordance with the provisions of international treaties and other agreements signed between the Romanian State and the neighboring states and may not be changed other than by law.

Romania's state border is inviolable.

**Article 3.** Romania's state border is as a rule marked on site by border markers whose topographical and geophysical description are envisaged in the demarcation document signed between the Romanian State and the neighboring states.

A border corridor, whose width will be agreed by the Romanian State with each of the neighboring states, will be established in order to ensure visibility and protect border markings. The border corridor will be cleaned and maintained under the immediate supervision of border guards.

**Article 4.** The following will be established in order to permit the state border to be guarded and watched:

- a) A protective strip for the state border, 20 meters wide, starting at the state border line on land and at the flood line in the case of waterway boundaries, toward the

interior. The Black Sea shore and the Danube ports located on the border will be excepted.

The border protection strip belongs to the public domain of national interest and will be managed by the border guards. The inner limits of the protective strip of the state border will be marked by the border guards.

b) A border zone, made up of the territory of the communes, towns, and municipalities which, according to the administrative organization of the Romanian territory, are located in the vicinity of the state border up to a 20 km depth toward the interior.

The localities included in the border zone will be brought to the attention of the public by the prefects, and the boards bearing their names will include the specification BORDER LOCALITY written in the Romanian language.

## CHAPTER II Legal Regime of Romania's State Border

**Article 5.** The legal regimen of Romania's state border includes all the rules envisaged in the domestic legislation regarding the state border and territorial waters, as well as the facilities jointly built on the border with neighboring states, in compliance with the norms of international law and with the treaties, agreements, conventions, and protocols signed by the Romanian State with the neighboring states. The legal regimen also includes the norms envisaged in the domestic legislation on carrying out various activities in the border zone.

The legal regimen of Romania's state border will be implemented, in accordance with the law, by the Ministry of the Interior through the CNG [National Border Guards Command] and the DGPPF [General Directorate for Passports and Border Police].

**Article 6.** Romania's state border will be crossed by persons, means of transportation, goods, and other objects through border crossing checkpoints open to international traffic, hereinafter to be referred to as checkpoints.

Romania's state border may be crossed at other points, too, in the conditions established under agreements and conventions between Romania and the neighboring states.

**Article 7.** Border controls will be organized and carried out at the checkpoints for persons, means of transportation, goods, and other objects entering or leaving the country.

The state border will be crossed at the checkpoints in accordance with the conditions envisaged in the present law.

**Article 8.** The purpose of the control carried out upon crossing Romania's state border is to verify and ascertain

compliance with the legal conditions established for the entry and exit of persons, means of transportation, goods, and other objects.

The control bodies in charge of the crossing of Romania's state border bear full responsibility for implementing and strictly observing the provisions regarding the entry and exit of persons, means of transportation, goods, and other objects and for smooth international traffic and passenger service in accordance with the legal provisions.

**Article 9.** The rules regarding the utilization and maintenance of bridges, railways, and roads, communication lines, and border waterways that intersect the border line or share an axis with it will be established by agreements signed between the Romanian State and the neighboring states.

**Article 10.** By a decision of the Romanian Government, border commissioners and acting commissioners will be appointed to handle issues stemming from bilateral border agreements, as will Romanian delegates to mixed intergovernmental commissions; the appointees will be nominated from among border guards and border police officers and functionaries from other ministries and central bodies involved.

## CHAPTER III Border Guarding and Watch Duties

**Article 11.** The state border will be guarded and watched by divisions, regiments, and battalions of the CNG.

**Article 12.** The CNG and its divisions, regiments, and battalions have the following main duties:

a) To guard and monitor Romania's state border, to preempt illegal border crossing, smuggling, and any violation of the rules of the state border legal regime;

b) To watch Romania's national waters and air space;

c) To ensure the implementation of the provisions of border treaties, agreements, conventions, and protocols signed by Romania with neighboring states;

d) To watch, check, and maintain border markings;

e) To check the travel documents of persons, the means of transportation and luggage of those entitled to cross the state border at minor traffic points and at points other than state border crossing checkpoints;

f) To organize and carry out border guard cooperation with similar bodies from the neighboring states in accordance with bilateral agreements;

g) To make recommendations regarding the appointment of border commissioners and acting commissioners and of Romanian delegates to mixed intergovernmental border commissions from among border guard officers.

h) To act to discover, detain, and investigate, in compliance with the law, persons who infringe on or violate the legal regimen of the state border;

i) To take measures to implement and observe the border legislation and to punish violations;

j) To carry out any other duties envisaged by law.

**Article 13.** With a view to fulfilling their duties, the border guards will cooperate with the other units and bodies of the Interior Ministry, with National Defense Ministry units, bodies of the Ministry of Economy and Finance, authorities of local public administration, and managements of economic units and may avail themselves of organized guard services and of the services of persons residing or working in the vicinity of the border, with their consent.

**Article 14.** According to the law, border guards on duty in the border zone are entitled to:

a) Check persons' identity documents and if necessary have them identified;

b) Stop and check vehicles;

c) Investigate land tracts, means of communication, and isolated buildings;

d) Stop, detain, and investigate persons about whom there is information or proof of having committed penal acts or violations or actions opposed to the legal regulations regarding the border; at the same time, they can search persons' luggage and clothing for the purpose of finding objects than may prove the intent to commit a violation or crime;

e) To establish, in conjunction with the authorities of the local public administration, specific, binding temporary or permanent measures regarding the guarding of the state border; the measures must not contravene the law and they will be brought to the attention of the public by the prefects and mayors.

**Article 15.** On the territorial sea and border waterways, border guards on a mission or carrying out other job duties are obligated to:

a) Verify compliance with the regulations regarding the territorial sea and border waterways;

b) Monitor activities taking place in the territorial sea and on border waterways and watch the adjacent air space;

c) Uncover and foil attempts to illegally escape by sea and illegal crossing of waterway borders;

d) Uncover and preempt smuggling and piracy;

e) Periodically check the position and condition of border markings;

f) Stop ships and persons that violated regulations regarding the territorial sea and border waterways and escort them to Romanian ports for questioning;

g) Uncover and preempt any other activity carried out in the territorial sea or border waterways that may affect the interests and sovereignty of the Romanian State, and immediately report it to the competent Romanian bodies.

**Article 16.** In order to fulfill their duties, the border guards and border police may use ships, boats, helicopters, motor vehicles, and other means of transportation. Their vehicles will bear the corps symbol and motto on the sides of the ships and vehicles, which will be equipped with superimposed rotating lights. Motorcycles of any type will also bear such markings on the fuel tank and will be equipped with lateral rotating lights.

**Article 17.** The border guards and border police are obligated by law to gather, store, and process the data and informations necessary to carry out their missions.

**Article 18.** By law, in the border zone the border guards and border police may detain persons who committed offences other than those envisaged in Article 14 letter d), whom they will immediately bring before the judiciary bodies in charge, along with the objects seized, material evidence, and reports.

**Article 19.** In keeping with the nature and degree of resistance offered by the violator or offender, the border guards and border police, while carrying out their legal duties, may take legal steps against them for the purpose of establishing their identity and seizing, uncovering, and saving anything that may serve as evidence or preempt fresh penal acts or violations; they may use physical force and their specific equipment, including service dogs.

In case of need and only when the use or other means of prevention or constraint is not possible, the border guards and border police may use their weapons, strictly in compliance with the law.

In every circumstance the border guards and border police are obligated to behave in a civilized manner and to respect the dignity of persons under detention and questioning.

### **Organization and Operation of Border Crossing Checkpoints**

**Article 20.** Romanian border crossing checkpoints will be organized and will operate under the control of the DGPPF.

Opening new checkpoints or temporarily or permanently closing down existing ones must be approved by a government decision.

**Article 21.** Checkpoints will also be manned by personnel of the Ministries of Economy and Finance, Transportation, Health, Agriculture, and Food Industry, and

Commerce and Tourism and other central bodies who by law have duties to discharge in such places.

The duties of the personnel of the ministries and bodies listed in Paragraph 1 will be established by the latter's leadership in accordance with the law.

**Article 22.** The ministries and central bodies that by law have such duties at checkpoints will cooperate and will be responsible, within the limits of their legal authority, for the smooth traffic of passengers, vehicles, commodities, and other objects and for ensuring the guarding of the state border in such places.

**Article 23.** The checkpoint commander will be an active officer designated by the Interior Ministry. He will coordinate and will be responsible for all the activities carried out at the checkpoint, in keeping with the law.

The checkpoint commander will verify and take the necessary legal measures to ensure that the checkpoint personnel correctly fulfill their service duties.

**Article 24.** Conscripted troops or personnel employed under contract may also be used for checking and monitoring means of transportation at state border crossings.

#### CHAPTER IV Border Crossing Controls

**Article 25.** Controls for crossing Romania's state border will be carried out by teams made up of checkpoint personnel. The head of the control team will be an officer or noncommissioned officer of the border police.

At port checkpoints the control team will also include a representative of the port master's office. Representatives of freight agencies and other authorized persons may also board freight ships along with the control team.

At airport checkpoints, the control team will also include a representative of the Romanian air transport companies.

**Article 26.** Passports and other documents required to cross Romania's state border, issued by Romanian or foreign authorities recognized or accepted by the Romanian State, will by law be controlled by the officers and noncommissioned officers designated by the checkpoint commander.

Should it be found that travel documents do not comply with the legal conditions required to entitle their owners to enter or exit the country, or should there be any suspicion about the authenticity of the documents, the checkpoint commander will immediately take measures to clarify the situation of the persons in question as urgently as possible.

The checkpoint commander may interrupt the travel of persons whose documents were found to not fulfill the requirements envisaged by law for crossing Romania's state border.

**Article 27.** Customs control of goods, luggage, packages, and other objects carried by persons will take place after the documents for crossing the state border have been controlled, by the customs personnel of the control teams, in compliance with the legal regulations concerning the customs regimen.

**Article 28.** According to the legal regulations, health, veterinary, and plant controls will be carried out by personnel designated by the Health Ministry and the Ministry of Agriculture and Food Industry.

Regarding the traffic of animals and animal and vegetable products, the Ministry of Agriculture and Food Industry in conjunction with the Ministry of Transportation may establish that such traffic may cross only through certain checkpoints, depending on the volume of traffic, on the incidence of animal and plant diseases, and veterinary and plant conventions signed with other states.

In accordance with the situation prevailing regarding animal and plant diseases, the Ministry of Agriculture and Food Industry may ban the traffic of animals and animal and vegetable products across the state border; the ministry will inform the other central bodies involved of its decision.

In accordance with the legal regulations, health protection measures will be applied at the state border to all persons, vehicles, goods, and other objects regardless of origin and destination. Persons who do not comply with these measures will not be allowed to cross Romania's state border.

In the case of diseases that require quarantine and in situations that do not suffer delay, the Ministry of Health will take prevention and treatment measures, which it will immediately communicate to the Ministries of Agriculture and Food Industry, Commerce and Tourism, Interior, National Defense, Foreign Affairs, and Transportation.

The health control of ships and aircraft must precede the border crossing document control and customs control.

**Article 29.** Natural persons may cross the state border carrying hunting and target practice arms and ammunition and ceremonial weapons only if such arms and ammunition were recorded in the border crossing documents by the bodies that issued them or issued the Romanian visas, or by the checkpoint authorities.

Travelers who come to Romania with arms and ammunition other than those envisaged in Paragraph 1 are obligated to deposit them with the border police.

Persons who escort foreign delegations at the level of heads of state or governmental delegations and military men may carry and bring into the country self-defense weapons and ammunition, on a reciprocal basis, if a notification was filed through the Ministry of Foreign affairs, National Defense, or Interior.

**Article 30.** Hunting and target practice arms and ammunition and ceremonial weapons carried by travelers in transit through Romania, which the travelers have declared, will be sealed upon entering the country by customs personnel.

During the transit the travelers are forbidden to relinquish the arms or ammunition or to tear off the seals. Upon exiting the country the condition and authenticity of the seals will be checked, and the specifics of the arms and ammunition will be checked against those recorded in the border crossing document. Should the seals not be intact or the specifics not match those recorded in the border crossing documents, or should all or some of the arms and ammunition have been relinquished, the travelers in question will be allowed to cross the border only with the permission of the DGPPF.

The transit through Romania of hunting or target practice weapons and ammunition belonging to foreign legal bodies requires the permission of the DGPPF.

**Article 31.** The arms and ammunition envisaged in Article 29 Paragraph 1 and 2 that were not declared, as well as other arms and ammunition discovered on border crossing controls, will be seized by the customs body for confiscation and will be remitted, accompanied by a report, to the police command of the county in which the checkpoint is located.

The person on whom the confiscated arms and ammunition were found may continue his travel with the permission of the DGPPF.

**Article 32.** The provisions of Articles 29-31 will also be duly applied regarding gun powder and other explosives, biological material carrying the potential for mass contamination, and devices loaded with toxic or radioactive substances found in the possession of persons crossing Romania's state border.

**Article 33.** Passenger cars, buses, motor coaches, freight trucks, and other road vehicles entering or exiting the country will be controlled at road checkpoints.

**Article 34.** Trains crossing the border will be controlled at the border station or underway between the border station and an interior station.

**Article 35.** Ships crossing the border to enter or exit Romanian ports will be controlled at port checkpoints. Exempted from control are Romanian and foreign military ships and their crews communicated by the Ministries of National Defense and Interior.

Border crossing controls of ships scheduled to stop at ports on the Danube where there are no checkpoints will be carried out at the first port up or down river from the port in question in which there is a checkpoint. At the exit the control will take place at the port from where the ship leaves on its foreign voyage, provided a checkpoint is in operation there; if not, the ships in question are obligated to stop for control at one of the ports of Galati, Sulina, or Moldova Veche.

Ships under foreign flags navigating in the Lower Danube sector between the ports of Sulina and Braila will pass border crossing controls at Sulina upon coming in, and at either Braila, Galati, Tulcea, or Sulina on going out, if from those ports the ships are scheduled to leave directly on a foreign voyage. Ships navigating through the Danube-Black Sea Canal will pass control in the port of Constanta-South on entering, and in the last Romanian port from which ships leave directly on voyage upon exiting.

Only ships that arrive from or leave on a foreign voyage from the ports of Basarabi, Poarta-Alba, Midia, or Cernavoda will pass control in Cernavoda.

All vessels navigating through Sulina toward the ports of Reni or Ismail will pass border control. Exempted from control are Romanian and foreign vessels coming from those ports and not calling at a Romanian port, and freighters and passenger ships under Romanian flag navigating between the ports of Constanta-Sulina-Galati and Braila upon entering and leaving the Lower Danube sector.

Vessels under foreign flag navigating down river on the middle Danube will stop for control in the port of Giurgiu on arrival, while those navigating up river will stop at Galati; upon exiting, vessels will stop for control at the last port from which they leave.

Vessels under foreign flag navigating in transit without stopping on the middle Danube or in the Danube-Black Sea Canal are not subject to control, unless border regulations were violated.

**Article 36.** Should a vessel have sunk in the port roadstead or should a fire break out on board a vessel, rescue vessels may go out into the roadstead to offer help without having to pass border control. Such situations must be reported to the checkpoint commander by the port master's office.

Should a fire break out in the port and threaten the safety of vessels, they are permitted to leave the port for the roadstead without passing border control.

**Article 37.** Seamen will be controlled upon crossing the border by checking their seaman cards against the roster and the crew list produced by the ship captain.

Foreign seamen can come on land by showing the permits issued for the purpose by the checkpoint commander.

Seamen will be controlled and identified on board by checkpoint officers and noncommissioned officers.

In the case of Romanian freighters who are compelled to stand in the port roadstead for justified reasons, the crew may come on land with the permission of the checkpoint commander. In such a case the vessels will be controlled after they come into port and the seamen's cards will be checked when they come down on land.



**Article 38.** The crews of vessels standing in the port roadstead, which did not pass border control upon arriving, may be given medical assistance by a physician going on board at the request of the vessel captain and with the permission of the checkpoint commander.

Should the authorized health bodies recommend hospitalization in the port city, foreign seamen may disembark with the permission of the checkpoint commander at the request of the harbor master's office.

**Article 39.** Foreign seamen on board vessels in a Romanian port, who must travel on duty to another port or another locality on Romanian territory in order to get in touch with the diplomatic mission or consulate of the state whose citizens they are may be issued an entry-exit visa upon request. The visa application will be handled by the freight or navigation agency of the state to which the vessel belongs or by the checkpoint commander. A transit visa will be issued if the seamen wish to travel to other countries.

The visas envisaged under Paragraph 1 are not required for seamen citizens of states with which Romania has agreements on waiving visas or recognizing seamen's cards as international travel documents.

**Article 40.** Seamen left on Romanian territory after the vessel has departed will present themselves at the maritime agency of their country to have their situation resolved. If there is no maritime agency in the port in question, the checkpoint commander will allow the seaman to leave the country on another vessel.

Seamen can be transferred from the crew of the vessel on which they are listed to the crew of another foreign vessel stationed in a Romanian port by the port master's office or the maritime agency of the country to which the vessel that requested the transfer belongs, after notifying the checkpoint commander.

**Article 41.** The documents of passengers on vessels under Romanian or foreign flag and of passengers on incoming or outgoing freighters will pass border control on disembarking or embarking, as the case may be.

Foreign passengers may come on land after obtaining a visa on their border crossing document, with the exception of citizens of states with which Romania has visa waiving agreements.

**Article 42.** Within the limits of conventions to which the Romanian State is a party, heads of diplomatic missions, consular offices, and representations of international organizations in Romania may have access on board foreign commercial vessels stationed in Romanian ports or territorial waters by producing the identity card issued by the Ministry of Foreign Affairs.

**Article 43.** Family members of foreign seamen serving on vessels stationed in Romanian ports and navigating between the ports of Constanta, Sulina, and Moldova Veche may have access on board by showing a passport or some other border crossing document, at the request

of the ship captain and with the permission of the checkpoint commander, in the same conditions as those applicable to the ship crew.

**Article 44.** At airports, border control will take place on the departure and arrival of airplanes to and from international flights. In force majeure cases in which an airplane on an international route cannot continue its travel and the passengers in transit have no immediate connections, they are allowed, upon request, to have access to the city until the departure of the first aircraft, or to cross Romanian territory on other means of transportation, on the basis of a transit visa issued by the checkpoint or by regional passport authorities, as the case may be.

Should airplanes on international flights be forced to land on airports not intended for international traffic, the border control will be done by the regional passport authorities.

Transit passengers stopping over in Romania will not have their passports controlled if they do not leave the airport. They will be handed boarding passes for the carrier on which they are to continue their travel by the authorized bodies of the Romanian air companies.

**Article 45.** Foreigners who enter and exit the country will be given entry-exit cards which they are to fill out with the necessary data and present, along with the border crossing documents, to the control authorities. The cards will also be filled out by transit passengers or passengers from countries with which Romania has visa-waiving agreements.

**Article 46.** Romanian and foreign military aircraft and their crews will submit to the same control regulations upon landing or taking off from international airports.

Exempted from control are military persons and aircraft communicated by the Ministries of National Defense and Interior.

## CHAPTER V

### Access to, Traffic in, and Other Activities in the Border Zone

**Article 47.** Romanian and foreign citizens are permitted access to the border zone by producing identity documents.

Persons' access to the state border protection strip is permitted on the basis of personal identity documents and with prior permission from the commander of the border guards battalion in charge of the area.

Persons who need to carry out work beyond the state border protection strip, the flood line on waterway borders, and on islands and keys belonging to the Romanian State and located in border waters are permitted access only through the points and in the conditions established by the border guards bodies.

Persons may not have access to newly formed islands and keys in border waters until it has been determined to whom they belong on the basis of bilateral agreements between the Romanian State and neighboring states.

**Article 48.** Persons are allowed access on board vessels and foreign seamen may disembark in compliance with the regulations established for checkpoints.

**Article 49.** In Romanian ports in which there are no checkpoints or minor traffic control points, nor border guards regiments or battalions, persons' access on board vessels and seamen's access to land require permission from the police authorities.

**Article 50.** In the border zone persons are allowed to circulate in daytime up to the border protection strip and by night outside the precincts of villages or the perimeter of towns and municipalities, with or without vehicles, only on public roads and in the conditions established by the local public administration authorities with the prior agreement of the regional border guards units.

Persons may stay and vehicles and equipment may be parked at night in the border zone, outside the precincts of villages or the perimeter of towns and municipalities in keeping with the terms established by the local public administration authorities, with the prior agreement of the commander of the border guards battalion.

The terms established for the cases envisaged in Paragraph 1 and 2 will be brought to the attention of the public by the local public administration authorities.

**Article 51.** Planned and approved flights by utility, sports, or amusement aircraft in the border zone will be announced, according to case, to the CNG by the Military Aviation Command and the under secretary of state for Civil Aviation within the deadlines envisaged in the flight regulations in Romanian air space.

Privately owned aircraft and helicopters will be parked only on civilian airports or authorized airfields and will be used according to the flight regulations in Romanian air space.

**Article 52.** Trees and shrubs may be planted in the border zone only at a distance of 500 m toward the interior from the border protection strip, and tall plants from a distance of 250 m toward the interior.

Trees may be planted inside the protection zone for the purpose of consolidating the land, after consulting the regional border guards units.

**Article 53.** Construction work outside village precincts or the perimeter of towns and municipalities is allowed only from a distance of 500 m of the state border protection strip toward the interior.

Any construction work outside village precincts or the perimeter of towns and municipalities to a depth of 500 m from the border line toward the interior will be carried

out only in thoroughly justified cases and after securing all the legal permits, including one from the CNG.

**Article 54.** The following activities may be carried out with the prior agreement of the CNG to a depth of 500 m of the border protection strip toward the interior: mining; extraction of oil, gas, mineral water, thermal water; forestry work; stone quarrying; land amelioration and irrigation; damming, work, or construction on waterways; tourist or rest constructions and facilities, and geological prospecting or studies.

**Article 55.** The utilization of border waterways for economic activities, navigation, entertainment, sports fishing, swimming, sun bathing, and livestock tending or watering will be established by the local public administration authorities with the prior agreement of the regional border guards units.

**Article 56.** Industrial and sports fishing in border waterways and the territorial sea will be legally permitted in the areas and sectors established by the local public administration authorities with the prior agreement of the regional border guards units.

**Article 57.** Boats and any other craft, with or without motor, pleasure, sports, fishing, and salvamar [sea rescue] boats will be registered with the harbor master's office or with the local public administration authorities where there are no such offices.

Boats and craft will be kept in places designated by the local public administration authorities with the agreement of the border guards commanders; their owners will take steps to ensure that they are not used for illegal border crossing or smuggling.

**Article 58.** Excursions to visit economic, historical, or tourist points of interest located in the border protection strip may be undertaken with the prior permission of regional border guards units.

**Article 59.** Tourist ships and any other vessel or craft are not allowed to put to shore in border waterways and the territorial sea except in ports. In force majeure cases they may do so at any point on the Romanian shore, then must declare themselves at the first border guards or police station. The terms of this article do not apply to Romanian citizens who own boats.

**Article 60.** Hunting in the border zone is legally allowed with the prior permission of the regional unit of border guards, which may be issued only after the border authorities of the neighboring states have been informed. The hunting may be done only by day, in a supervised manner, and up to 500 m from the state border protection strip, so as not to violate the territory of the neighboring state with gun fire.

**Article 61.** Livestock may be put to pasture by day up to the border protection strip and by night up to 500 m from the strip to the interior, in places designated by the

local public administration authorities in conjunction with the commanders of the regional units of border guards.

**Article 62.** Persons who travel or carry out various activities in the vicinity of the state borders are forbidden to:

- a) Cross the state border without legal documents or with legal documents through points other than the established ones;
- b) Fire weapons across the state border;
- c) Damage or destroy border markings or the installations or technical watch equipment of the border guards;
- d) Shine lights on the territory of the neighboring state;
- e) Cause or feed fires in the state border protection strip;
- f) Take pictures, film, or paint images within the protection strip of the state border showing portions of the territory of neighboring states;
- g) Exchange objects and mail across the state border outside checkpoints, points of small traffic, or other legally designated places;
- h) Carry out activities apt to infest or pollute border waterways or the territorial sea;
- i) Commit actions, make gestures, or profer insults at the neighboring state or its citizens.

**Article 63.** In special situations, during actions by troops of the border guards, access to the border zone may be temporarily stopped or certain activities may be interdicted, and persons may not be allowed to stay outside localities during the night. Such measures will be announced in time to the local public administration authorities, the public, and the interested economic and social units.

#### CHAPTER VI Responsibilities and Sanctions

**Article 64.** Violation of the provisions envisaged in the present law will incur disciplinary, material, civil, contraventional, or penal punishment for the person guilty of it.

**Article 65.** Entering or leaving the country by illegally crossing the state border constitutes an offence and will be punished by three months to two years imprisonment.

**Article 66.** If the state border was illegally crossed in order to escape serving a sentence, it will be punished by six months to three years imprisonment.

**Article 67.** Recruiting, guiding, or escorting a person for the purpose of illegally crossing the state border constitutes an offence and will be punished by six months to three years imprisonment.

If the action involved a group of persons or was intended to obtain material or other advantages, the penalty will be one to five years imprisonment.

Attempts to commit such actions are punishable.

Payment or material goods obtained by means of such infraction will be confiscated.

**Article 68.** Unless the action constitutes a more serious offence, illegal crossing of the state border will be punished by two to seven years imprisonment if it involved:

- a) Force or an attack on border guards, policemen, or customs personnel;
- b) Armed persons or a group of persons;
- c) Taking out of the country objects from the national cultural heritage or objects of a particular value, or trafficking in arms, ammunition, explosive or radioactive materials, narcotics, psychedelic substances, or poisons.

Attempted such actions are also punishable.

**Article 69.** Unless viewed as offences by law, the following actions constitute violations:

- a) Attempts to leave the country by illegally crossing the state border;
- b) Shooting a firearm across the state border, damaging or destroying border markings or border guards installations or technical watch equipment, causing or escalating fires within the state border protection strip, or carrying out actions apt to infest or pollute the ground, air, or border waters;
- c) Trespassing on the provisions of Article 59, 60, and 62 letter g) and i);
- d) Trespassing on the provisions of Article 47, 50, 56, and 61.

**Article 70.** The violations listed in Article 69 will be penalized as follows:

- (a) Those under letter a) and b) by contraventional imprisonment from 15 days to three months or a 10,000-25,000 lei fine;
- (b) Those under letter (c) by 5,000-10,000 lei fines;
- (c) Those under letter (d) by 3,000-7,000 lei fines;
- (d) Those under letter (e) by 2,000-6,000 lei fines.

**Article 71.** The violations listed in Article 69 will be ascertained by officers and noncommissioned officers of the border guards and border police.

In the case of penalties involving fines the wrongdoer may lodge a complaint in court within 15 days of the communication of the report on the violation, in accordance with the law.

In the case of the violations listed in Article 69 letters a) and b), if the reporting official deems that a fine penalty is sufficient, he will apply a fine.

If not, the report on the violation will be immediately sent to the court in whose jurisdiction the violation was committed; a request to have the court decision reexamined may be filed within 24 hours of its pronouncement if the violator was present at the debate, or of the communication if he was absent.

**Article 72.** 50 percent of the money received in fines applied in accordance with Article 70 and of the value of confiscated smuggled goods will go to the CNG or the DGPPF, depending on the subordination of the reporting agent, and will be distributed as follows: 20 percent to the troops who uncovered the violation and 80 percent to the regiments and battalions to which they belong.

**Article 73.** Fines applied to foreign natural persons may be paid in convertible currency by converting the lei fines into convertible hard currency at the official rate of exchange in effect on the date the violation was committed.

#### CHAPTER VII Final Provisions

**Article 74.** The buildings housing road checkpoints and the land around them constitute state public property and are managed by the Ministry of the Interior or other central institutions, which will provide the other bodies having checkpoint duties with the necessary premises for carrying out their specific duties, on the basis of agreements and in the conditions established between the Interior Ministry and the supervisory bodies in question.

The Ministry of Transportation will provide the space required to permit the specific activities of the bodies manning border crossing checkpoints, small traffic points, and simple border crossing points in railway stations, ports, and airports. The obligation is also incumbent on other natural persons or legal bodies running such railway stations, ports, and airports.

**Article 75.** The rules regarding control methods and the behavior of border crossing checkpoint personnel will be established by regulation by the Ministry of the Interior in conjunction with the central bodies involved, in compliance with the international standards practiced in this domain.

**Article 76.** The provisions of the law on establishing and penalizing violations will be duly implemented unless otherwise envisaged in the present law.

**Article 77.** On the date of enactment of the present law, the Command of Border Guards Troops will become the National Border Guards Command [CNG], which will adopt a professional system of state border guard and watch.

The CNG, together with the divisions, regiments, battalions, and platoons in its subordination, military and civilian personnel, their arms, ammunition, and equipment, budget, and all assets and debts existing at this date, will be transferred from the Ministry of National Defense to the Ministry of the Interior on the basis of a protocol signed between the two ministries.

**Article 78.** In order to ensure the operation of a professional guard and watch system at the state border, the CNG will secure the necessary personnel from among graduates of its own schools, selected military cadres transferred from other military units, and specialists called up for active duty.

The CNG and its divisions, regiments, and battalions may operate health care points, commercial associations, clubs, holiday facilities, hostels, and cultural sports establishment, in compliance with the law.

**Article 79.** The CNG military and civilian personnel transferred to the Interior Ministry will preserve all the rights envisaged in the legal regulations in effect.

The civilian personnel of the CNG and its units will view themselves as transferred on duty.

The organizational structure of the CNG will be established by the interior minister in accordance with Law No. 39/1990 regarding the establishment, organization, and operation of the Supreme Council of National Defense.

**Article 80.** The heirs of military men belonging to the CNG and the DGPPF dead in acts of exceptional devotion to duty, during or in connection with their job, will by law be allocated a pension equal to the full salary of the respective military men at the date of their death.

Should there be no heirs or surviving spouse, if the deceased was the sole supporter of his parents, they may by law be allocated half of the survivor pension established in accordance with Paragraph 1. The pension for permanent incapacitation suffered in accordance with Paragraph 1 will be equal to the salary in force at the date in question, and the recipient will receive a one-time grant equal to five times the amount of his salary.

Military men partially incapacitated in accordance with Paragraph 1 who can no longer exercise their profession will receive, in addition to their pension rights, a grant equal to three times the amount of their salary at the respective time.

In the case of conscripts, the pension will be calculated on the basis of the minimum pay of military men serving under contract.

**Article 81.** Regular military cadres, conscripts, and those employed on contract, the civilian employees of the CNG, and the DGPPF cadres whose jobs involve border controls will receive a border allowance of up to 20 percent of their base pay.

**Article 82.** Border guards, border police, and military men employed under contract, who reside in rural areas not in state or privately owned housing are entitled to a rent allowance. The size of the allowance will be established by the interior minister.

**Article 83.** The Ministry of Economy and Finance will take measures to introduce the due changes in the economic-financial indexes of the Ministries of National Defense and Interior on the basis of the latter's recommendations.

**Article 84.** The present law will come into force 15 days after its publication.

On the same date, Article 3 of the Decree-Law No. 12/1990 regarding the abrogation and amendment of some of the provisions of the Penal Code and the Code of Penal Procedure, Decree-Law No. 45/1990 on the legal regimen of Romania's state border, and all other provisions to the contrary will be abrogated.

This law was passed by the Chamber of Deputies at its 27 May 1992 session in compliance with the provisions of Article 74 Paragraph (1) and 77 Paragraph (2) of the Romanian Constitution.

[signed] Dan Martian,  
Speaker of the Chamber of Deputies  
[signed] Academician Alexandru Birladeanu,  
Speaker of the Senate

Bucharest, 4 June 1992  
No. 56

*This law was passed by Senate at its 1 June 1992 session in compliance with the provisions of Article 74 Paragraph (1) and Article 77 Part (2) of the Romanian Constitution.*

**Decree on Importation of Hazardous Wastes**  
92BA1206A Bucharest MONITORUL OFICIAL  
in Romanian 22 Jun 92 pp 1-4

["Decision No. 340 Regarding the Importation of Wastes and Residues of Any Nature, as Well as the Importation of Other Items That Are Dangerous to the Health of the Population and to the Environment"]

[Text] The Romanian Government decrees:

**Article 1.** The importation into Romania of wastes and residues of any nature, in unprocessed or processed condition, is forbidden.

In the sense of the present decree, wastes and residues of any nature are understood to be technical residues of any nature, products and materials with expired dates of guarantee, physically worn products that have no utilization value, as well as household waste.

**Article 2.** Excepted from the provisions of Article 1 are certain categories of waste: ores, ferrous and nonferrous metals, as well as other wastes to be processed by importers in existing production facilities so as to obtain

raw and useful materials, as long as the transportation, storage, and processing of this waste does not present toxic or ecologic risks.

The waste categories excepted from the provisions of Paragraph 1 are stipulated in Appendix 1.

Appendix 1 can be revised at the recommendation of interested ministries, with the approval of the Ministry of the Environment, and through government decision.

**Article 3.** The wastes mentioned in Article 2 are imported on the basis of importation licenses that are issued only with the approval of the Ministry of the Environment and the Ministry of Health.

Importation licenses are required to contain an importer's statement made on his own responsibility, specifying the name of the product to be brought into the country, with the express indication "wastes of ...."

**Article 4.** In contracting, packaging, loading, and shipping the categories of wastes stipulated in Article 2, importers are required to assure that they fully correspond to the characteristics of the documentation presented to the Ministry of the Environment and the Ministry of Health, in order to obtain the approval stipulated in Article 3, Paragraph 1.

At the same time, importers are required to obtain conformance statements from authorized organizations in the country of origin, certificates attesting that these products do not present toxic and ecologic risks, as well as approvals from the customs organizations of the exporter's country.

**Article 5.** In transportation contracts, importers are required to stipulate that the existence of international transportation documents as well as of the documents specified in Article 4, be verified at loading time.

Transportation documents, including those stipulated in Article 4, will accompany the shipment throughout the transportation process.

Customs agents will allow transportation facilities loaded with such products to enter Romania only if they are shown an importation license with the written approval of Ministry of the Environment and Ministry of Health, as well as the documents stipulated in Article 4.

In the absence of any of these documents, the transportation facilities in question will not be allowed to enter Romanian territory.

**Article 6.** Products which are dangerous to the health of the population and to the environment, as stipulated in Appendix 2, will be imported only on the basis documents and approvals established through legal provisions for each group of products on the basis of quality certificates issued by authorized organizations in the



country of origin, appended to the conformance statements, as well as on the period of guarantee of validity, as the case may be.

In the absence of any of these documents, customs agents will not allow the products to enter Romanian territory.

**Article 7.** Transportation facilities for products which on the basis of the documents stipulated in Articles 4, 5, and 6 of the present decision fulfill the conditions for entering Romania, will be directed to customs units within the country for customs processing.

At the request of customs agents and together with them, customs inspections will be conducted with the participation of specialists from the National Commission for Standards, Metrology, and Quality, the Ministry of the Environment, the Ministry of Health, the Ministry of Agriculture and Food, as well as of other ministries and central agencies of public administration, as the case may be.

**Article 8.** Transportation facilities which raise suspicions regarding the products they contain at the time they cross the border, will be inspected at the border according to the provisions of Article 7 Paragraph 2.

**Article 9.** When inspections disclose violations of legal provisions, all costs resulting from product verification, expert evaluation, and return, will be borne by the importers or transporters, as the case may be.

**Article 10.** In implementing the present decision, the Ministry of the Economy and Finance, the General Customs Directorate, the National Commission for Standards, Metrology, and Quality, the Ministry of the Environment, the Ministry of Health, the Ministry of Industry, the Ministry of Agriculture and Food, the Ministry of Commerce and Tourism, as well as other ministries and central agencies of public administration, will jointly formulate within 30 days from the adoption of the present decision, procedural regulations specifying the functions they will exercise, and will assure the training of specialized personnel.

**Article 11.** Within 30 days from the publication of the present decision in *MONITORUL OFICIAL AL ROMANIEI*, importers of the products stipulated in Appendix 1 are required to obtain approvals from the Ministry of the Environment and the Ministry of Health, and to apply for reconfirmation of importation licenses.

**Article 12.** Failure to respect the importation regulations covered in the present decision will result in civil or penal responsibility, as the case may be, for the guilty persons.

**Article 13.** The following acts are contraventions, if they are not infractions according to penal law, and are penalized with fines of 250,000 to 1,000,000 lei:

a) Failure to enter in the importer's documentation complete data about the exact characteristics and name of the products to be imported;

b) Failure on the part of importers to take the measures necessary to assure that in contracting, packaging, loading, and shipping, the products stipulated in Appendices 1 and 2 fully correspond to the characteristics specified in the documents approving the importation;

c) Failure on the part of importers to compel transporters to verify at loading time the existence of international transportation documents as well as of the certificates stipulated by the present decision;

d) Violation on the part of transporters, of the obligations stipulated in Article 5;

e) Permission on the part of custom agents to bring into Romanian territory transportation facilities loaded with products stipulated in Articles 2 and 6, in the absence of any one of the documents required by the present decision;

f) Failure to respect reconfirmation deadlines for importation licenses and to obtaining approvals from the Ministry of the Environment and the Ministry of Health.

**Article 14.** The contraventions stipulated in Article 13 letters a), b), c), d), and f) are ascertained, and fines collected, by custom agents, police officers and non-commissioned officers, as well as by specifically empowered personnel in the Ministry of the Environment, the Ministry of Health, National Commission for Standards, Metrology, and Quality, and the Ministry of Commerce and Tourism.

The contravention stipulated in Article 13 letter e) is ascertained, and fines collected, by police officers and non-commissioned officers.

Appeals against contravention reports can be made within 15 days from the date they are communicated.

Appeals, together with a copy of the contravention report are filed with the organization of the person who issued the report, which then forwards it for solution to the court in whose territorial area the contravention was committed.

**Article 15.** The provisions of Law No. 32/1968 Regarding Establishment of and Penalties for Contraventions, apply to the contraventions stipulated in the present decision.

**Article 16.** In particular cases beyond the responsibilities stipulated in Articles 12 and 13, the Ministry of Commerce and Tourism, at the recommendation of the Ministry of the Environment, is authorized to refuse to

issue importation licenses to economic units for a period of 2 to 10 years, or as the case may be, to rescind approvals that have already been granted according to law, for conducting foreign trade operations.

**Article 17.** Agencies of the Ministry of the Interior and of the Financial Guard are required to provide support to the inspection agencies stipulated in article 7, at their request and during the exercise of their functions.

**Article 18.** Any provisions to the contrary cease to be applicable on the date the present decision comes into force.

—Prime Minister Theodor Stolojan  
—Minister of the Environment, Marcian Bleahu  
—Minister of Commerce and Tourism, Constantin Fota  
—Minister of the Economy and Finance, George Danielescu  
—Minister of Justice, Mircea Ionescu-Quintus  
—Minister of the Interior, Victor Babiuc  
—Minister of Industry, Dan Constantinescu  
—Minister of Agriculture and Food, Petru Marculescu  
—Minister of Health, Mircea Maiorescu

Bucharest, 20 June 1992, No. 340

# Appendix 1.

## Categories of Usable Waste Conditionally Accepted for Importation

1. Steel scrap (old iron)
2. Scrap cast iron (old cast iron)
3. Scrap copper
4. Scrap brass
5. Scrap bronze
6. Scrap lead
7. Scrap zinc
8. Scrap aluminum
9. Hard metal scrap
10. Precious metal scrap
11. Uncolored and opaque glass chips
12. Waste paper and cardboard
13. Clean cotton and wool-mill waste containing 100-percent natural fiber
14. Clean waste from cotton and wool knitting plants

### Comments:

a) The presence of the products named in Appendix 1 to the document formulated during Session II of OECD on 17-20 September 1991, regarding the importation of dangerous chemical products, is forbidden in wastes.

b) The presence of organic substances (plastic materials, oils, and so on) is not allowed in waste categories 1-11.

c) Importation licenses are issued only to the economic units indicated by specific ministries to the Ministry of Commerce and Tourism.

## Appendix 2. Categories of Products Dangerous to the Health of the Population and to the Environment, in Order of Customs Code

	Product Category, Generic Name	Customs Code (to ... from, inclusive)
1.	Various products of animal origin	05.01-05.11
2.	Lacquers, resins, and vegetal extracts	13.01-13.02
3.	Glycerin, pure or not pure; lye washes and glycerin waters	15.20
4.	Coal, solid fuels, peat, coke	27.01-27.04
5.	Tars, oils, vaseline, paraffin, bitumen	27.06-27.15
6.	Inorganic chemical products and organic and inorganic compounds	28.01-28.11
7.	Halogen or sulfur compounds containing metalloids	28.12-28.13
8.	Inorganic bases and oxides, hydroxides, and peroxides	28.14-28.25
9.	Salts and peroxide salts of inorganic compounds	28.26-28.42
10.	Various inorganic compounds	28.43-28.51
11.	Hydrocarbons and their derivatives	29.01-29.04
12.	Alcohols and their derivatives	29.05-29.06
13.	Phenols and their derivatives	29.07-29.08
14.	Ethers, epoxies, acetals	29.09-29.11
15.	Aldehyde compounds	29.12-29.13

**Appendix 2. Categories of Products Dangerous  
to the Health of the Population and to the  
Environment, in Order of Customs Code (Continued)**

	Product Category, Generic Name	Customs Code (to ... from, inclusive)
16.	Compounds with ketone functions	29.14
17.	Carboxylic acids, halogenated compounds, peroxides, and peroxide acids	29.15-29.20
18.	Nitrogen compounds	29.21-29.29
19.	Organic-inorganic compounds, heterocyclic compounds	29.30-29.35
20.	Vitamins and hormones <sup>1</sup>	29.36-29.37
21.	Heterogeneous compounds and alkaloids	29.38-29.39
22.	Other organic compounds	29.40-29.42
23.	Pharmaceutical products <sup>1</sup>	30.01-30.06
24.	Fertilizers	31.01-31.05
25.	Tanning extracts, dyes, pigments, paints, putties, and caulks	32.01-32.15
26.	Essential oils, perfume and cosmetic products and preparations <sup>1</sup>	33.01-33.07
27.	Soaps, washing preparations, lubricants <sup>1</sup>	34.01-34.07
28.	Albumen-based substances, starch, enzymes	35.01-35.07
29.	Miscellaneous flammable material items	36.06
30.	Photographic chemical preparations	37.07
31.	Oils, essences, resins, tars	38.03-38.07
32.	Pesticides <sup>1</sup>	38.08
33.	Miscellaneous chemical industry products	38.09-38.23
34.	Resin-based plastic materials and plastic material items	39.01-39.26
35.	Raw leather	41.01-41.03
36.	Raw furs	43.01
37.	Various sprays	96.19

<sup>1</sup> In accordance with the list of products approved by the Ministry of Health and the Ministry of Agriculture and Food, based on prevailing legal regulations.

*Note: Products such as these can be imported only by economic units approved by their specific ministries.*

### Decision on Eligibility for Social Relief Meals

92BA1227B Bucharest MONITORUL OFICIAL  
in Romanian 19 Jun 92 pp 4-5

[Government decision on social relief canteens, passed on 1 June 1992]

[Text] The Government of Romania decrees:

**Article 1.1.** Social relief canteens are local institutions of social aid legally organized and operating under the supervision of local public authorities.

**2.2.** The social relief canteens will provide social aid by offering free or payable services to persons in special economic, social, or health conditions.

**Article 2.1.** The following categories of persons may avail themselves of the services of social relief canteens:

a) children under 18 in the care of families whose average per capita monthly income is under 30 percent of the nationwide indexed minimum gross pay, minus the relevant tax;

b) youth under 18-26 years of age enrolled in day classes in state schools, during periods in which they receive no scholarships, who have no legal supporters, or whose supporters are in the situation described under letter a);

c) invalids and chronic patients whose work incapacity is proven by legally issued medical documents;

d) persons without an income, women aged at least 55 and men 60, who are no longer capable of working for age reasons;

e) pensioners and persons entitled to social relief or other cash assistance awarded by law;

f) any person temporarily without an income capable of securing minimal daily food.

**2.2.** Persons subject to the provisions of Article 5 paragraph (1) letter a) or c) of Law No. 1/1991 on social protection for the unemployed and their professional reintegration, and family members in their care will not be entitled to the services offered by social relief canteens.

**2.3.** The persons envisaged in paragraph (1) letter f) are entitled to the services of social relief canteens in the conditions of the present decision for a period of at most 90 days.

**Article 3.1.** The social relief canteens will provide the following social assistance services to the persons entitled in keeping with Article 2 of the present decision:

a) Prepare and serve two daily meals per person, lunch and dinner, within the limits of the food allocation envisaged by legal regulations;

b) Provide at the canteen or deliver at home basic produce and foodstuffs or maintenance and care products for personal use. The supplies will be offered for purchase at cost price, without exceeding the price levels practiced for the same products by economic factors in the public sector.

**3.2.** The services envisaged in paragraph (1) letter a) of the present article will be offered free to persons without an income or whose incomes are lower than 30 percent of the nationwide indexed minimum gross pay minus the relevant tax; partial or full payment will be exacted, according to individual cases, from the other persons entitled, in keeping with their incomes.

**3.3.** The above payment will be set at 30 percent of the person's income, but no more than the cost of the meals served, calculated for the same period on the basis of the daily food allocation.

**Article 4.1.** The food prepared for the two meals will as a rule be distributed once a day at the canteen or at service points organized by it.

**4.2.** Persons immobilized for objective reasons will have the food prepared for the two meals delivered once a day daily to their homes.

**Article 5.1.** Applications for social relief services will be approved by the mayor or a representative delegated by him.

**5.2.** In urgent cases, an authorization for social relief canteen meals may be issued by the canteen manager for at most three days.

**Article 6.1.** The managers and head accountants of social relief canteens will be appointed to the post by the mayors, with the agreement of the decentralized public services of the Ministry of Labor and Social Protection.

**6.2.** The organizational charts and number of personnel of social relief canteens will be approved by the local

councils, at the mayor's recommendation, after prior consultation with the decentralized public services of the Ministry of Labor and Social Protection.

**Article 7.1.** The local public administration authorities will be responsible for ensuring the material resources necessary for the operation of social relief canteens and will supervise their activities.

**7.2.** The current and capital expenditures of the network of social relief canteens will be financed from the local budgets, within the limits of fund transfers from the state budget to local budgets, approved in compliance with the law.

**7.3.** The Ministry of Labor and Social Protection will ensure professional assistance for social relief canteens through its decentralized public services.

**Article 8.1.** The investment funds necessary to develop the network of social relief canteens will be allocated according to the terms of Article 7 part (2) of the present decision, in compliance with the legal provisions regarding the approval and endorsement of technical-economic documentation.

**8.2.** In areas in which there are no social relief canteens, the local public administration authorities may arrange with units of social protection and assistance, autonomous managements, businesses, and public institutions that have canteens, or with public catering units to provide the social services envisaged in Article 3 par (1) letter a), whereby the terms of Article 2, Article 3 paragraph (2) and (3) and Article 5 of the present decision will be duly applied. The relevant current expenses will be covered from the local budgets.

**8.3.** Donations made in cash or kind by Romanian and foreign natural and legal persons to a social relief canteen may be used only by the canteen in question for the purpose of developing and improving the quality of its services.

**Article 9.1.** The social relief canteens opened and operating in keeping with Council of Ministers Decision No. 454/1957 will be reorganized in line with the present decision.

**9.2.** The Local Public Administration may issue methodological norms for the implementation of the provisions of the present decision.

**Article 10.** The provisions of Article 10 of Council of Ministers Decision No. 454/1957 regarding aid to the pensioned elderly or those without a pension will be abrogated.

[signed] Prime Minister Theodor Stolojan

[Countersigned] Dan Mircea Popescu, Minister of Labor and Social Protection

Doru Viorel Ursu and Teodor Mircea Vaida, State Secretaries at the Department of Local Public Administration  
George Danielescu, Minister of Economy and Finance  
Florian Bercea, Minister of the Budget, State Revenues, and Financial Control

Bucharest, 1 June 1992, No. 290

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